Department for Work & Pensions

The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026

Report by the Social Security Advisory Committee under Sections 172(1) and Section 174(1) of the Social Security Administration Act 1992 and statement by the Secretary of State for Work and Pensions in accordance with Section 174(2) of that Act

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Presented to Parliament pursuant to Section 174(2) of the Social Security Administration Act 1992

April 2026

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SOCIAL SECURITY ADVISORY COMMITTEE

The Rt Hon. Pat McFadden MP
Secretary of State for Work and Pensions
Caxton House
Tothill Street
London
SW1H 9NA

1 April 2026

Dear Secretary of State,

The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026

Thank you for the courtesy of providing me with advance sight of your response to the Committee's recommendations on the above regulations.

I am pleased to note that you have accepted four out of the Committee's five recommendations, with the remaining one partially accepted. While recognising that some aspects of our recommendations will take time to fully implement, I regard your response as a positive step forward in achieving greater alignment with your stated policy intent of giving clearer reassurance to claimants with disabilities or health conditions who wish to explore work without fear of a reassessment or award review. I look forward to receiving updates from the Department as further progress is made.

As you are aware, the purpose of the Committee's statutory scrutiny is to provide rigorous, independent analysis of social security regulations so that Ministers and Parliament can be confident that secondary legislation achieves the Government's policy intent, is legally sound, operationally workable, and that impacts are well understood - particularly for vulnerable claimants. The value of that process in delivering enhanced outcomes, and the importance of all parties engaging effectively in the process, is demonstrated particularly well in this case. I am grateful for your engagement, and for the constructive involvement of your Ministerial team, DWP officials and my Committee colleagues in achieving that outcome.

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Yours sincerely,

Dr Stephen Brien
SSAC Chair

Secretary of State's Statement in response to the Social Security Advisory Committee's report dated 1st April 2026

Department for Work & Pensions

THE RT HON PAT MCFADDEN MP

Secretary of State for Work & Pensions

Caxton House 6-12

Tothill Street

London, SW1H 9NA

1 April 2026

Dr Stephen Brien

Chair of the Social Security Advisory Committee

Caxton House

Tothill Street

London

SW1A 9NH

Dear Stephen,

The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026

On 12 February 2026, your Committee considered the proposed changes to the Right to Try Work policy at formal reference. I would like to thank you for setting out the Committee's concerns in your subsequent letter. I recognise the Committee's view that fear of reassessment continues to present a significant barrier to work. I understand the Committee concluded that, in its view, the Right to Try regulations as drafted may not provide claimants with sufficient reassurance. Your recommendations therefore focus on strengthening protections, so claimants are not disadvantaged when taking steps towards work, including volunteering.

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I agree with the direction of the recommendations and set out below the approach that the Department will adopt in taking them forward.

Recommendation 1a: The Committee recommends a legislative amendment to Regulation 41 of the Universal Credit Regulations 2013 (and parallel provisions) to prevent the Secretary of State from initiating a reassessment within at least six months of a claimant commencing paid or voluntary work under the 'Right to Try' guarantee, except where there is a suspicion of fraud or non-work related evidence of a change of circumstances.

DWP response: Accept – I accept this recommendation. I have asked officials to undertake work urgently to assess how this change could be delivered within my existing powers via secondary legislation. However, implementing this change in full across all benefits would likely require primary legislation, and the Department will need time to review and assess its policy and delivery implications before the policy detail is finalised.

Recommendation 1b: The Committee recommends that corresponding amendments be made to the assessment regulations – including the Employment and Support Allowance Regulations 2008, the Universal Credit Regulations 2013, and the Personal Independence Payment Regulations 2013 as appropriate – to establish that evidence of functional capacity derived from work activity or workplace performance during the protected period shall not normally be treated on its own as demonstrating sustained capability in any assessment or reassessment, however that assessment was initiated and whether or not it was triggered by the work itself.

DWP response: Accept – I accept this recommendation. The Department recognises the limitations of the WCA and PIP award review process and accepts the principle that individuals should not be disadvantaged for entering work. Similarly to recommendation 1a, this will require new primary legislation to ensure there is no contradiction between what is intended under primary legislation and the operation of the assessment process under future regulations.

Recommendation 2: The Department should issue guidance to assessment providers immediately, directing that functional capacity demonstrated in a work setting should not be treated as evidence of sustained, reliable capability for PIP or WCA purposes during the first six months of employment, voluntary work or public office commenced under the guarantee. This guidance should be issued through existing mechanisms for updating assessment provider instructions and should remain in force until superseded by the regulatory amendments recommended above.

DWP response: Partially accept – I agree to undertake work to examine how to best protect entitlement for claimants during their first 6 months of work, but require more time before guaranteeing when or how this can be operationalised.

Recommendation 3: The Committee recommends that the Department issue updated guidance establishing that leaving employment or voluntary work due to health reasons within the protected period will, in the absence of evidence to the contrary, be accepted as good reason for the purposes of any sanctions and conditionality decisions.

That guidance should provide greater clarity for work coaches, decision makers and assessment providers to ensure that the 'Right to Try' protections are applied consistently. This guidance should also address claimants with fluctuating conditions, dual UC/ESA and PIP claimants, and UC claimants without LCW or LCWRA whose work attempts later prove unsustainable because of their health due to a deterioration in health or the unsustainability of the role.

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DWP response: Accept – the Department will look to update sanctions and conditionality guidance to make clear that, where a claimant leaves employment or voluntary work for health-related reasons, this will ordinarily be treated as good reason, unless there is evidence to the contrary.

I accept the Committee's recommendation to strengthen guidance so that the Right to Try protections are applied consistently, but the Department will need to consider how and when we could operationalise this.

Recommendation 4: The Department should ensure that its communications strategy is firmly aligned with the realities of the regulations and guidance as drafted, as well as the wider assessment framework, so that claimants are not inadvertently misled. Messaging should be tested with claimants and advisers to check that it does not over-promise or imply a guarantee that the regulations do not provide, and it should be adjusted in the light of early experience. Communications should also be directed explicitly at assessment providers, who play a critical role in interpreting work activity. Stakeholders advised that without alignment across work coaches, decision-makers, assessors, and tribunals, a coherent message cannot be achieved.

DWP response: Accept – I accept this recommendation. It is essential to align our communications with the regulations and guidance to help avoid claimants being misled or given expectations that the system cannot meet.

I recognise that alignment across work coaches, decision makers, assessors and tribunals is essential. My officials will work closely with those involved in the delivery of relevant benefit lines, including assessment providers, to ensure consistent understanding and interpretation of the policy. Updated guidance and communication materials will reinforce a single, consistent message across the whole system.

The Department plans to test messaging through research with customers to inform the approach to effectively communicating the policy. To support implementation, the Department will update guidance to make clear that paid or voluntary work does not, in and of itself, trigger a reassessment.

Recommendation 5: The Committee recommends that the Department extends its engagement with current and recent benefit claimants, disabled people's organisations, and frontline advisory services to establish what specific package of guarantees would provide sufficient confidence for claimants to attempt work. This should include exploring what more can be done to enable individuals to be able to be able to take up public appointments. This engagement should not be limited to testing the acceptability of the current proposals but should determine the minimum conditions - including the duration, scope, and legal status of any protections - under which the 'Right to Try' would be regarded as a genuine and reliable guarantee. The Department should additionally adopt a 'test and learn' approach to certain aspects of the proposals, including the effectiveness of the planned communications approach. The findings of this, and the wider stakeholder engagement we have proposed, should inform a further legislative proposal, developed collaboratively, which places the 'Right to Try' on a footing that reflects claimants' actual experience of risk rather than the Department's assessment of what ought to be reassuring. We seek a commitment from the Department that it will report back to the Committee within twelve months on progress toward a legislative framework that reflects the evidence gathered from claimants about what a meaningful 'Right to Try' requires.

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DWP response: Accept – I understand the importance of stakeholder engagement and of hearing how DWP policy works for customers. The Department will continue engaging with stakeholders and has already been doing so through the Collaboration Committee. However, ministers must ultimately determine the direction of this policy.

I also accept the Committee's recommendation to adopt a test and learn approach, particularly for the communications strategy.

I trust this letter provides a clear update on how the Department is responding to your recommendations. I greatly value the Committee's ongoing engagement.

Best wishes,

The Rt Hon Pat McFadden MP

Secretary of State for Work and Pensions

Letter to Secretary of State from the Social Security Advisory Committee dated 19th March 2026

SOCIAL SECURITY ADVISORY COMMITTEE

The Rt Hon Pat McFadden MP
Secretary of State for Work and Pensions
Department for Work and Pensions
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SW1H 9NA

19 March 2026

Dear Secretary of State,

The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026

At its meeting on 21 January 2026, the Social Security Advisory Committee undertook its statutory scrutiny of the draft *Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026*. These regulations are intended to give effect to the Government's 'Right to Try' policy by establishing in legislation that trying work (including voluntary work), will not, in and of itself, trigger a Personal Independence Payment (PIP) award review or a Work Capability Assessment (WCA) reassessment for New Style Employment and Support Allowance (NS ESA) and Universal Credit (UC) claimants in receipt of the health element.

Having considered the proposal further, and undertaken a targeted consultation as we describe below, our considered view is that the underlying problem is real - i.e. that people are afraid to try work - but that the 'Right to Try' proposal is an inadequate solution, with potentially negative

consequences. In our view, it promises more than it can deliver. It does not address many of the risks people face when trying work, and it may give claimants false reassurance that attempting work will not lead to their benefits being reassessed. Our report explains why.

We understand that the regulations are designed to ensure that "trying work will not, in and of itself, lead to a reassessment or award review, breaking down barriers to employment".[1] For this change to make a real difference, claimants must receive clear and reliable new protection against at least some of the risks they face if a job does not work out. In practice, the regulations presented to us essentially placed on a statutory footing an approach that has for some time been reflected in the Department's operational guidance;[2] namely, that taking up employment is not in itself a criterion in the assessment of Limited Capability for Work (LCW) or Limited Capability for Work and Work-Related Activity (LCWRA), nor in the assessment of entitlement to PIP.[3] The regulations also confirm that the existing permitted work rules under NS ESA remain unchanged.

The Department's memorandum to the Committee, and the subsequent discussion with officials at our meeting, highlighted that the underlying policy objective is to reduce the fear of reassessment that currently deters many disabled people and people with health conditions from trying work. Recent evidence cited by both the Department and stakeholders indicates that a significant proportion of ESA and UC health claimants are worried that if they enter paid employment and it does not work out, they might not regain their benefits. Similar anxieties have been reported by PIP claimants, including concern that engaging in work or employment support could prompt a reassessment and a loss of support. This is consistent with evidence that the Committee itself heard in 2022 during its research into out of work disability benefits.[4]

The Committee recognises the Government's aim of offering clearer reassurance to claimants who wish to explore work. A well-designed policy has the potential to support better health, wellbeing and financial security for disabled people and those with health conditions, and we recognise the wider reform context in which these proposals sit. We also note that UC and PIP operate as in-work benefits, and that NS ESA already enables many claimants to undertake work while maintaining entitlement to UC, NS ESA and PIP. The proposed regulations would make this position clearer and more certain by setting it explicitly in legislation.

However, as we explained in our letter of 12 February 2026 to the Minister for Social Security and Disability, having carefully considered the draft proposals and the evidence provided, the Committee was not persuaded that the regulations as drafted offered sufficient clarity or assurance to achieve their intended purpose.

We therefore decided to take the regulations on formal reference, under section 172(1) and 174(1) of the Social Security Administration Act 1992.

[1] As set out in DWP's press release of 18 June 2025. This is the Department's fulfilment of the 2024 Labour Party manifesto commitment to give "disabled people the confidence to start working without the fear of an immediate benefit reassessment if it does not work out.".
[2] With the new addition of voluntary work in legislation after the importance of volunteering as a stepping stone to employment was highlighted in the Department's discussions with Collaboration Committee members.
[3] PIP payments are not dependent on any work criteria and indeed often help to sustain people in their employment.
[4] Out of Work Disability Benefit Reform (2022), Social Security Advisory Committee.

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Mindful of the ministerial commitment to Parliament that these proposals will be implemented in April,[5] we have limited our consultation to a targeted engagement with organisations and individuals on specific issues where further insight was required. The Committee took the view that an expedited process of this nature was justified on this occasion given the considerable evidence already gathered through the Department's recent consultation and collaboration committees – coupled with evidence gleaned from our own stakeholder discussions when we explored this issue in 2022.

The Committee has concluded that 'Right to Try' can be effective only if claimants who attempt work do not lose out as consequence of doing precisely what the Department wants to encourage. At present, functional capacity demonstrated in the early stages of employment can still be used to a claimant's disadvantage in an assessment. This creates a clear disincentive: for many the safest course will be to avoid work altogether. A policy cannot credibly promote work while permitting the assessment framework to treat the same work attempt as evidence of improved capability. Where incentives to work and assessment processes are in tension, an intentional choice must be made. The Committee's view is that, if the policy is to achieve its stated intent, the pro-employment objective must take precedence. This necessarily involves a limited policy trade-off: for a short period (we suggest six months), some claimants may continue to receive benefit even where their circumstances have begun to change. Stakeholders expressed this directly: if the Government genuinely wants disabled people and people with health conditions to try work, it must be willing to absorb a degree of risk and ensure people are not penalised for taking the steps it seeks to encourage.

To give the guarantee practical effect, the assessment framework requires an additional safeguard. This would provide time-limited protection during the early period of employment, voluntary work or public appointments, so that functional evidence from that activity cannot be treated as determinative of improved capability, and reassessment cannot be initiated except on clearly unrelated grounds. The fiscal exposure is small, the cohort affected is limited, and the risk of misuse minimal. What remains is a question of coherence: the guarantee already removes work as a trigger for reassessment, and it should now ensure that early workplace evidence does not undermine that protection. A clearly defined, time-bound safeguard for the same cohort would align the procedural and evidential aspects of the guarantee and complete the policy logic.

Having carefully considered the inconsistent evidence available to us, and recognising that so few people return to work after receiving a benefit on the grounds of incapacity that the downside risks of a more permissive approach are very small, our recommendations focus on the following aspects of the proposals:[6]

- the need for a clear safeguard to ensure that evidence relating to the first six months of attempting work will not lead to disadvantage;
- the requirement for greater clarity in guidance for operational staff to ensure a consistent approach;

[5] Universal Credit Bill - Hansard - UK Parliament.
[6] Our formal recommendations are set out in the accompanying report.

- the importance of a robust, and fully tested, claimant communications strategy aligned to what the regulations actually do; and
- the need for a thorough understanding of what would give claimants confidence to try work, including voluntary work and public appointments, without fear of social security penalties.

In conclusion, the Committee welcomes the Government's intention to provide disabled people and those with health conditions greater confidence to try work without fear of triggering reassessment. However, while the Committee welcomes this initial step, it is our view that the current proposals represent a cautious starting point rather than the comprehensive package likely to be required to secure claimant trust. The Committee therefore urges the Government to view these regulations as an initial phase within a wider programme of reform. Our scrutiny indicates that achieving this aim will require greater strengthening of, and clarity in, claimant communications and operational guidance. By addressing the risks of misunderstanding, strengthening the safeguards around how work activity is interpreted in assessments, and ensuring consistency with existing frameworks, the regulations have the potential to make a meaningful contribution to improving trust and supporting more people to explore work opportunities.

The Committee does not see any reason to delay the implementation of these proposals, which represent a positive step forward. However, it is clear that wider regulatory reform will take time. Nonetheless, we regard it as essential that the Right to Try is underpinned, from the outset, by change in both substance and form. From the point at which they come into force, this package of regulations should therefore be supported by updated and strengthened guidance. This guidance should be kept under review and iterated as necessary.

I attach the Committee's report, which sets out in more detail our conclusions and recommendations on the proposed regulations. We present our report for your consideration before the regulations are laid. This advice is presented with a clear recognition of the legal and operational challenges you face in the effective delivery of this policy. The solution will require determination and innovative thought, and we would be willing to support your ministers and the Department, where appropriate, as it moves through this process.

In closing, the Committee would like to express its thanks to Graeme Connor and his team for presenting the regulations to us, and for answering our questions, at our meeting on 21 January 2026.

A copy of this report has been shared with the Minister for Social Security and Disability, the Baroness Sherlock OBE and Bill Thorpe (Director, Disability and Health Support).

Yours sincerely

Dr Stephen Brien
SSAC Chair

Report by the Social Security Advisory Committee

THE UNIVERSAL CREDIT, PERSONAL INDEPENDENCE PAYMENT AND EMPLOYMENT AND SUPPORT ALLOWANCE (AMENDMENT) REGULATIONS 2026

Intent and scope of the regulations

The Committee's starting point in scrutinising any set of regulations is to assess how far their impact will align with the Government's stated policy intent. In this case, we recognise the aim of giving clearer reassurance to claimants who wish to explore work. However, limiting the amendment solely to the removal of 'doing work' as a reassessment trigger does not address the broader framework within which work-related activities[7] may still be treated as evidence of changed functional capability. Without clearly defined rules on how such activities will be interpreted, many claimants are likely to continue viewing reassessment as a significant potential risk. For this reason, the Committee decided to take these regulations on Formal Reference[8] to examine how the Department expects the change to operate in practice, how it will be communicated, and whether further measures may be required.

The draft regulations remove "doing paid or voluntary work" as a relevant change of circumstances for the purpose of triggering a Work Capability Assessment (WCA) reassessment for Universal Credit (UC)[9] and Employment and Support Allowance (ESA). They also provide that engaging in paid or voluntary work cannot be used as the sole reason to reassess entitlement under the Personal Independence Payment (PIP) Regulations. In effect, they confirm that working, taken alone, will not be treated as a trigger for reassessment.

During scrutiny, officials explained that the key innovation lies in an explicit statutory statement that work - including voluntary work - does not, in and of itself, count as a change of circumstances.[10] They also emphasised that these regulations are envisaged as a first stage, with further work planned on guidance, communications and, potentially, further reforms.

The Department informed the Committee that, with the addition of voluntary work, this approach is consistent with its current stated practice, which has previously been set out in guidance rather than legislation. The regulations therefore clarify and codify existing practice in legislation rather than introducing a new policy. They operate within the current WCA and PIP frameworks and do not alter the underlying assessment criteria. The Committee understands that this reflects a deliberate design choice to work within the existing benefit architecture, particularly in light of the

[7] Including (i) activities undertaken in the work context, (ii) getting to and from work, (iii), engaging in preparatory or exploratory work-related activity.
[8] Under section 172(1) and 174(1) of the Social Security Administration Act 1992.
[9] For claimants in receipt of the UC Health Element.
[10] Relevant to entitlement to benefit.

Government's previously stated longer-term intention to replace the WCA with a single assessment model based on the PIP framework.

However, the Committee notes that the underlying legal framework will still give the Secretary of State broad powers to reassess a claim at any time. Under Regulation 41 of *the Universal Credit Regulations 2013*, the Secretary of State has the power to require a reassessment whenever he considers it necessary. In addition, Regulation 26 of *the Universal Credit, PIP and ESA (Decisions and Appeals) Regulations 2013* allows an award to be superseded on the basis of any newly obtained medical report. These provisions remain unchanged. As a result, removing work as a trigger does not, on its own, prevent reassessment once a claimant starts work. As one legal adviser told us during our consultation, *"nothing in these regulations prevents the Secretary of State reassessing someone the next day if he wants to – the powers are completely unfettered."*

Stakeholder evidence suggests that, without clearer limits on when reassessment may occur, the reassurance offered to claimants has to remain very limited in practice. The Committee accepts that the Department prefers incremental change, and that more substantial changes would take longer to develop. However, the practical effect of these regulations will depend not only on the legal drafting but also on how they are communicated, understood and applied. They will operate within a wider system in which many claimants report confusion and anxiety about assessments, particularly where guidance has not always been applied consistently. Stakeholder evidence suggests that, without limits on when reassessment may occur, reassurance to claimants will be minimal in practice. A narrow legislative assurance may not be enough to change claimant expectations. A more substantive legislative approach may ultimately be required to achieve the level of confidence intended by the policy.

Simply translating parts of existing guidance into regulations is unlikely to be enough to shift claimant perceptions. There is a real risk that legislating a relatively narrow assurance about work, without also addressing the broader change of circumstances rules or the interaction between separate assessments, could harden certain boundaries while leaving unaddressed - or even magnifying - some of the underlying sources of mistrust.

Use of nature of work as evidence

The regulations tackle only one specific mechanism by which work can affect entitlement: being in work as a formal trigger for reassessment. They do not, however, remove the possibility that the type of work that a claimant does, or even their journey to and from work, may be considered as evidence in a PIP review or WCA. Nor do they prevent such activity from being treated as a relevant factor where a review is initiated for other reasons. We also note that, because PIP does not require claimants to report taking up work, the Department cannot prevent a routine review from occurring shortly afterwards. This means some claimants may wrongly assume a reassessment has been prompted by their work rather than simply by the end of their award, and even if it was not the prompt, there is nothing to prevent the Department from taking their work into account in the reassessment.

In practice, this means that while work in and of itself may not be the sole stated reason for reassessment, evidence arising from work activity may still trigger a reassessment, or influence a re-assessment that arises for other reasons. The Committee considers that this distinction is important.

The deterrent that the policy seeks to address operates through two related, but distinct, channels: first, the fear that starting work will automatically trigger reassessment; and second, the concern that performance of work/work-related tasks will be interpreted as evidence of improved capability and therefore lead to a reduced award or loss of entitlement. The draft regulations remove the first risk. They do not remove the second.

This concern is not hypothetical. Officials confirmed to the Committee that, under current rules, a claimant who has started work can still be reassessed, and their work activity may be treated as evidence of improved functional capability. This could lead to a reduced award or loss of eligibility. The Department's position is that decision makers must retain the ability to assess whether the nature of work undertaken indicates improved capability.

Stakeholders told the Committee that this risk is reinforced by current decision-making practice. Evidence from advisers and case law demonstrates that work activities are often used, sometimes without adequate consideration of workplace adjustments, support, or fluctuating conditions. Clarifying that entering work is not, in itself, a trigger for reassessment will not create any new meaningful 'Right to Try' guarantee while this remains the underlying approach. The Committee heard examples where claimants who remained formally employed during long-term sickness absence had this treated as evidence of capability, even when they were not actually attending work. As one adviser put it: *"We see work used against people every single week - often on the flimsiest basis."*

From an operational perspective, clarity is critical. If guidance is unclear, or if staff are not confident and consistent in applying it, there is a risk that work may still end up being treated in practice as a de facto trigger for reassessment, which would run counter to the stated policy intent. Inconsistent application would undermine both the credibility and the effectiveness of the regulations.

Experiencing the 'Right to Try'

The 2024 Labour Party manifesto promised to "*give disabled people the confidence to start working without the fear of an immediate benefit reassessment if it does not work out*." The policy intent of a 'Right to Try' is credibly delivered only if claimants who attempt work in good faith are genuinely protected in the event that it fails.

During our discussion with officials on 21 January, we examined in detail the position of claimants in various scenarios who may leave work that proves unsustainable because of their health condition. Three specific vulnerabilities place that credibility at risk.

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1. UC claimants with PIP but without LCW/LCWRA status risk sanctions if work proves unsustainable and they stop. Stakeholder evidence highlighted that the current approach to 'good reason' for leaving employment is complex, multilayered and inconsistently applied. The Department has accepted this interaction needs careful thought, so that individuals who act in good faith are not left worse off when work fails because of their health.

2. Dual UC/ESA and PIP claimants can be subject to overlapping and poorly coordinated assessment and reassessment processes, and these regulations do not change how those different assessments operate. The Department has acknowledged this and agreed to consider how rules and guidance might be made more coherent and transparent for such claimants.

3. There is a risk that work activity undertaken in reliance on the 'Right to Try' guarantee could later be used as evidence of capability against the claimant, potentially leading to the loss of both financial support and employment. This the Committee considers the most serious vulnerability: it can transform a good-faith work attempt into a trap.[11] Unlike the first two points, this has not yet received a Departmental commitment.

Interpretation of Evidence of Work Activities

The regulations prevent work from *triggering* a reassessment, but they do not govern the weight accorded to work activity in assessments arising by other means. The distinction between "work as a trigger" and "work as evidence" will not be clear in practice. Many individuals with fluctuating or complex conditions experience gradual or uneven changes in functional capacity, and it is rarely possible to identify a single, discrete moment at which circumstances have changed.[12] A claimant who begins work may not perceive themselves as having materially improved; yet if a reassessment occurs - even if it is for other reasons, for example a routine review or a reported change in health - evidence arising from their work activity may still be considered. If evidence relating to discharge of that job at an early stage - perhaps before the individual is sure as to whether that job is going to work out or not - can potentially be used to reduce their benefit entitlement, then it is far from obvious why they are any less exposed to the consequences of trying a job than they were before.

The Committee notes that performance within a probationary period may not be indicative of long-term capability. Many claimants may exert unsustainable effort in the early stages of employment in the hope of securing permanence, often at significant cost to their health or daily functioning. Early workplace performance is therefore a potentially misleading signal of sustained functional capacity. The Committee is clear that claimants do need a reasonable period to allow reasonable adjustments to be put in place and take effect, and for the impact of fluctuating conditions to be seen. During our stakeholder engagement, we heard that a six-month grace period would go some way to reassuring people they could try work without a risk of reassessment.

[11] Stakeholders with whom we engaged reiterated that perception of risk of entrapment.

[12] During our targeted consultation, several organisations highlighted that the draft regulations do not distinguish between fluctuating conditions and lifelong or deteriorating conditions. For claimants with lifelong disabilities, a temporary period of evidential protection – for example six months - offers limited reassurance, as their underlying support needs will not change across that period. Stakeholders emphasised that for people with lifelong or deteriorating conditions, any short-term protection is largely meaningless, and the absence of a differentiated approach risks leaving this group permanently excluded from the benefits of the policy.

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Assessment guidance already sets out detailed instructions on how evidence should be weighed, including taking account of fluctuating conditions, the effects of treatment, and the difference between what a claimant can do occasionally and what they can do consistently.[13] In principle, these safeguards should limit how much weight is placed on early workplace performance. In practice, however, guidance of this kind sets expectations rather than enforceable standards. It does not specifically address the position of a claimant in the early stages of a work attempt, and it does not prevent decision-makers from treating workplace functionality as evidence of sustained capability. The very concerns it is intended to address are precisely those that Upper Tribunal decisions have repeatedly identified as occurring in practice: we understand that lower tier tribunals have been criticised for misapplying descriptors by relying on workplace interactions rather than the activities actually tested, or for placing undue weight on evidence such as attending education or employment without considering the context.

The issue is not the legal test, but the weight accorded to early workplace performance. PIP requires that activities [not] be performed reliably, repeatedly, safely and in a timely manner;[14] the WCA similarly requires that activities [not] be performed safely, to an acceptable standard, as often as required and in a timely fashion.[15] Early workplace activity can be structurally poorly placed to satisfy either standard. Performance in the early months of a new employment setting may be influenced by employer support, structured routines, and the motivational effects of a new environment. Such performance may not provide reliable evidence of sustained functional capability in the absence of those supports. Treating early workplace functionality as evidence risks overstating what it demonstrates about long-term capacity. This concern is reinforced by tribunal authority in the other direction: in other cases, the tribunal has acknowledged that a claimant's ability to work may increase their entitlement to support, reinforcing that workplace functionality does not reliably demonstrate reduced disability.[16]

Claimant Perceptions

Survey data indicates that 44% of disabled people do not trust the Department to help them reach their career potential, and 39% do not trust it to account for their needs in the way it provides services.[17] One organisation told us: "*This isn't paranoia. People fear reassessment because*

[13] The existing legislation requires assessments to be holistic and to focus on functional ability in a reliable way - meaning activities must be considered to be undertaken safely, to an acceptable standard, repeatedly, and in a reasonable time, with due regard to pain, fatigue, or fluctuations (per Reg. 4 of the PIP Regulations 2013 and Reg. 19 of the Employment and Support Allowance Regulations 2013).

[14] Regulation 4(2A) of the Social Security (Personal Independence Payment) Regulations 2013.

[15] Work Capability Assessment Handbook: For Healthcare Professionals (published by DWP, last updated September 2024).

[16] CF v Secretary of State for Work and Pensions [2024] UKUT 244 (AAC): Error of law where the FTT misunderstood Activity 9 by relying on abilities not included in the descriptor (talking on the phone; engaging in a work context). Demonstrates that tribunals sometimes misinterpret social/interaction abilities by importing workplace-based assumptions.
KW v Secretary of State for Work and Pensions [2024] UKUT 410 (AAC): Judge Fitzpatrick criticised the FTT for treating workplace engagement as evidence contradicting evidence of fear or distress when meeting new people or going to new places. Shows inappropriate reliance on workplace social interactions.
HA v Secretary of State for Work and Pensions (PIP) [2018] UKUT 56 (AAC): Judge Rowley held that the FTT erred by giving undue weight to attendance at a college course without exploring context. Although education rather than employment, it illustrates the same evidential mistake: taking an external activity as a proxy for functional capability without contextual analysis.
EW v Secretary of State for Work and Pensions [2025] UKUT 307 (AAC):Upper Tribunal confirmed that a claimant's ability to work does *not* imply reduced disability: where fatigue or other symptoms worsen after work, performance of evening tasks may show more, not fewer, functional limitations. Supports the claim that workplace capability can legitimately *increase* PIP points.

[17] Perceptions of Department for Work and Pensions - GOV.UK (April 2025)

reassessment has repeatedly harmed them."[18] In the Committee's view, it is this deeper mistrust of the whole process - not simply the fear of losing entitlement upon starting work - that constitutes the primary barrier to employment. This is the environment into which the 'Right to Try' guarantee is being introduced. Its success depends not on the legal architecture alone but on whether claimants can be given genuine confidence that acting on it is safe.

The Department's own memorandum prepared for the Committee recognises that claimants may misunderstand the regulations and interpret them (in the opposite direction) as a broader "no reassessments guarantee". It further acknowledges the risk that unmet expectations could deepen existing mistrust. That acknowledgment matters: it concedes that the gap between perceived and actual protection is foreseeable, not speculative. Hence, the conditions for potential disappointment are already in place before even a single claimant attempts work.

Stakeholders we spoke to expressed concern that a public message suggesting a 'Right to Try' may be interpreted as a broad guarantee, even though the legal framework still allows reassessment at any time. This gap between the perceived offer and the underlying reality risks deepening mistrust if claimants experience reassessment soon after beginning work. The mechanism of failure is straightforward. Our concern is whether claimants can realistically distinguish between "work as a trigger" and "work as part of a wider change" in practice. A claimant who relies on the 'Right to Try' to attempt work, and who is subsequently reassessed because of that employment, will not experience that legal distinction as a meaningful safeguard.

There is a real risk that people who try work in good faith may later feel at least misled and potentially entrapped if they are subsequently reassessed for reasons that, from their perspective, are closely tied to their work activity. In communities where information about benefit risk travels quickly, it requires only one such experience to become widely known. If even one individual has heard about a "new Right to Try guarantee" but then finds evidence collected in the discharge of their job were used to end or reduce their benefit payments, then that could become a bad news story. News of such an experience would further dent trust and, with it, the confidence of claimants to try work in line with ministerial aspirations.

In practice, the regulations may narrow the scope of assurance offered to claimants while increasing the perceived risks around how evidence from engaging in work will be treated, leaving claimants more - not less - uncertain about whether it is safe to try work. A measure that addresses only the trigger, without also addressing how early workplace evidence is handled is unlikely to overcome the trust barrier it is designed to remove. There is a clear gap between the declared intention of a 'right to try' and the reality that an adverse reassessment might be based on the evidence arising from the very employment the guarantee is meant to support. Where the likely experience of the policy diverges from its stated purpose - and where that divergence affects a group already primed to expect the worst - there is a real risk that it could undermine the very trust and confidence the policy is seeking to build. Even if most people who try work never

[18] DWP's own survey evidence (2024–25) confirms the problem persists: 50% of disabled out-of-work claimants still fear benefits will not be restored if work fails, and 73% identify benefit loss as a significant barrier to attempting employment. Unlocking Benefits, JRF/Scope (2024).

experience a reassessment, it is the small number of negative experiences are the ones most likely to be noticed and remembered.

Analysis

The Committee does not dispute the principle that evidence from the workplace can be relevant. Assessments must continue to be based on functional capability, and decision-makers must be able to consider relevant evidence. Where a claimant demonstrates sustained improvement in a working environment, that will at some point become relevant evidence of capability. But this reveals rather than resolves the structural problem. Removing work as a formal trigger for reassessment does not, of itself, remove the risk that trying out a real and particular job may be used against a claimant in a reassessment.

The preceding sections explain why existing safeguards do not adequately manage this risk. In practice, it is very difficult for decision-makers to separate work as a trigger and work activities as evidence, because functional evidence generated during a work attempt is continuous with the work attempt itself. Early workplace performance is also an unreliable indicator of sustained capability, for the reasons set out above. Although assessment guidance contains the right principles, it sets aspirations rather than enforceable standards - as the pattern of Upper Tribunal criticism confirms.

The core issue is not the drafting of the regulations. It is that the evidential boundary the guidance is asked to regulate cannot be managed through guidance alone. The guarantee tells claimants they can try work without fear. At the same time, the assessment system requires decision-makers to consider all relevant evidence of capability. These two principles sit in direct tension. No refinement of guidance can resolve that tension, because the conflict is structural. Improving directions to decision-makers may address the symptoms, but it cannot change the fact that a claimant who relies on the guarantee to attempt work may, through that very act, generate the evidence that reduces their entitlement.

The Department has already accepted that trying to work should not be taken as proof that someone has fully recovered. The guarantee is based on the fact that starting work does not reliably show sustained or improved capability. If it did, there would be no need to stop it from triggering a reassessment. The same reasoning applies, just as strongly, to any functional evidence gathered early in that work attempt. It is illogical to accept that starting a job cannot be accepted as a trigger for reassessment, but that doing that job can almost immediately be used as evidence of capability. This gap is not incidental but built into the logic of the policy. To acknowledge it without acting on it leaves the guarantee structurally incomplete.

The Committee does not consider that further ***refinement*** of existing directions to decision-makers would be sufficient to overcome this. A measure that addresses the trigger but not the evidential treatment of early workplace activity is unlikely to overcome the trust barrier it is designed to remove.

Completing the Guarantee

A claimant who attempts employment is doing precisely what the Department seeks to encourage. Allowing functional capacity demonstrated during that attempt to be used adversely in an assessment risks creating a perverse incentive directly contrary to the policy's stated purpose. The guarantee cannot credibly encourage claimants to attempt work while the assessment framework remains free to treat the consequences of functional capacity apparent from that attempt as evidence of recovered capability. If employment is a priority objective, the design of the assessment framework must not inadvertently penalise those who respond to that encouragement. As one stakeholder put it with some force: *"Right now the safest thing for disabled people to do is nothing. That's the perverse incentive the policy needs to fix."*

Where these policy objectives are in tension – encouraging work on one hand and maintaining consistency in assessments on the other - the Department must make a deliberate and transparent choice about which should prevail. The Committee's view is clear. Where the choice is between a claimant being in work and receiving benefits, or being out of work and receiving benefits, the in-work option must be preferred. That is the stated intent of the policy, and the entire architecture of the 'Right to Try' guarantee is predicated upon it. If employment is a priority, and the entire architecture of the 'Right to Try' guarantee is predicated on the principle that claimants should not be penalised for attempting work, then the pro-employment objective must take precedence wherever these principles conflict. Anything else would weaken the very guarantee the Department is seeking to introduce.

The Committee recognises that this poses a genuine challenge to the integrity of the disability assessment model, which is predicated on treating functional evidence consistently regardless of context. That challenge is real. But it remains a policy choice - and it must be made explicitly if the policy is to deliver what the Labour Party manifesto promised. Providing a genuine 'Right to Try' requires accepting a policy trade-off: some claimants may continue receiving benefit temporarily even where their circumstances[19] have changed, but this cost is justified (and may be recouped) if the priority is encouraging disabled people and those with health conditions into work. As stakeholders told us: "*If the Government genuinely wants disabled people to try work, it will have to absorb some risk and stop penalising people for taking the very steps it says it wants."*.

This requires an overlay - an additional safeguard applied on top of the current framework - rather than a refinement of the existing provisions.

The Committee therefore considers that the 'Right to Try' guarantee requires a complementary clarification concerning the treatment of functional evidence arising during the initial period of employment, voluntary work or public appointments,[20] and that a time-limited protection may be necessary to give the policy its intended practical effect. Stakeholders reinforced this analysis by arguing that, unless the Secretary of State's ability to initiate reassessment is time-limited - for

[19] relevant to the conditions of benefit entitlement.
[20] This is important given the Cabinet Office's stated desire for greater diversity in appointments in its refreshed Public Appointments Diversity Action Plan (2019) which includes an acceptance of the recommendations from Lord Holmes' review on Opening up Public Appointments to Disabled People.

example through a statutory bar on reassessment within the first six months of starting work - the policy remains incomplete.

The tension between maintaining the integrity of disability assessments and encouraging disabled people and those with health conditions into work is not a new problem. Successive governments have repeatedly faced the same structural conflict - that a system designed to assess incapacity will, if left unmodified, penalise the very work attempts it is supposed to encourage. And they have repeatedly sought to resolve it in the same way: through explicit safeguards that operate as an overlay on the assessment framework rather than a modification of it. Permitted work rules, linking rules, and transitional payments were not refinements to assessment methodology - they were deliberate choices to limit the consequences of the assessment framework during defined periods of work activity.[21] The 'Right to Try' guarantee belongs to this tradition. The question is not whether such an overlay is feasible or justified - history is clear that the answer is 'yes' - but whether the current guarantee has been designed sufficiently to deliver what that tradition has always promised.

The Committee has considered whether there are material practical objections to completing the policy in this way, and is not persuaded that there are. The fiscal exposure is limited, the affected population is small, and the scope for misuse is minimal. What remains is a question of principle: whether assessment should be context-blind, treating all functional evidence equivalently regardless of the circumstances in which it was generated. The 'Right to Try' guarantee has already moved beyond this position. Coherence now requires that the evidential treatment of early workplace functionality be brought into alignment with the principle that the guarantee itself establishes.

The Committee notes that the 'Right to Try' guarantee applies specifically to claimants who, having been in receipt of health-related benefits, commence paid or voluntary work. The complementary clarification should be defined with equivalent precision - applying to the same cohort and for a clearly defined period - thereby providing a clear and coherent boundary. This would ensure consistency between the procedural protection against reassessment triggers and the evidential treatment of early workplace functionality.

The Committee therefore concludes that the 'Right to Try' guarantee, as currently framed, addresses only one dimension of the risk that deters claimants from employment: it removes the risk of a procedural link between starting work and reassessment,[22] but does not address the evidential concern that functional capacity demonstrated in work may be used against them. The Committee considers that the existing guidance framework, while not without relevant content, does not provide adequate protection against the risk that early work activity is treated as reliable evidence of improvement. Because this risk falls precisely on those who rely on the guarantee when they try work, it requires a more specific and enforceable response than general guidance can supply.

[21] Permitted Work rules allowed ESA claimants to earn up to sixteen hours at the National Minimum Wage with no reduction in benefit. Linking rules under Incapacity Benefit allowed claimants to return to their previous benefit and assessment status without reassessment if work failed - extended to 104 weeks in 2006 explicitly because fear of reassessment was suppressing work attempts. The Return to Work Credit, Extended Housing Benefit payments, and tax credits income disregard each addressed the same problem from different angles.

[22] With the exception of PIP which has no link to work capacity.

Proportionality and incentives

The Committee considers that the financial case for accepting a degree of fiscal risk has not been adequately made within the Department's own analysis. If the policy objective is to encourage more disabled people and claimants with health conditions into employment, and it is accepted that the fear of reassessment deters them from doing so, then maintaining the status quo carries its own cost - claimants who might otherwise reduce or end their benefit entitlement through sustained employment instead remain out of work and on full benefit. The Department cannot justify a policy which seeks to encourage work while simultaneously preserving unrestricted powers to act on the evidence that work generates.

The Committee has considered the potential fiscal implications of such a clarification and is satisfied that they are proportionate i.e. a likely low fiscal risk with a potential significant benefit to achieve policy intention. The number of claimants who both commence employment and undergo reassessment within a short period is necessarily small. Research from the Learning and Work Institute indicates that only 1% of people out of the workforce for health reasons find employment within six months.[23] Departmental statistics show that disabled workers leave employment at a rate of 8.6% per year, compared with 4.9% for non-disabled workers.[24] The cohort affected by any transitional evidential protection would therefore be very small. Any marginal cost of maintaining awards during this period would likely be outweighed by the longer-term fiscal and economic benefits of sustained employment.

Recommendations

Reducing Risk of Reassessment

The proposed regulations establish that work, in and of itself, should not trigger a reassessment. The Committee recommends further assurance be provided that, generally, work-related activities undertaken during the course of that employment will benefit from the same degree of protection, defined with equivalent precision and applying to the same cohort for a clearly specified limited period.

Recommendation 1(a)

The Committee recommends a legislative amendment to Regulation 41 of the Universal Credit Regulations 2013 (and parallel provisions) to prevent the Secretary of State from initiating a reassessment within at least six months of a claimant commencing paid or voluntary work under the ‘Right to Try’ guarantee, except where there is a suspicion of fraud or non-work related evidence of a change of circumstances.

[23] The Benefit Trap, Learning and Work Institute (February 2025).
[24] Official Statistics: The Employment of Disabled People (2024).

23 The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026

In pausing assessments for a limited period to enable claimants to try work, Recommendation 1a is a clear legislative solution that provides, what the Committee considers to be, further necessary assurance to claimants and achieves the policy intent with minimal cost to the government and risk for the claimant.

This is not intended to be an indefinite moratorium on assessment, instead it is a specific and temporary delay on potential assessments which in our view will more effectively align with the policy intent of encouraging claimants to try work.

Down-weighting evidence from work activities

If temporarily pausing assessments during the 'Right to Try' period is not accepted (or not practical – e.g. for PIP claims), the Committee believes the Department should provide an alternative assurance to claimants who want to try work. We suggest that this could effectively be achieved by instigating a wider legislative change which explicitly clarifies how in-work functionality should be treated as evidence in assessments.

The Committee recommends that the Department introduce a time-limited safeguard under which work-related activity and performance during an initial protected period is unlikely on its own to be used as evidence of capacity. This provides a balanced solution to the current paradox in the pre-existing guidance that work itself is not a relevant change of circumstances, but the functional activities of work are relevant to determining a change of circumstances.

In such cases, we believe the government should seek significantly to realistically reduce the weighting given to evidence of functional activities performed in a work context during assessments for both PIP and WCA, rather than seeking to eliminate it entirely. This should involve a statutory presumption in favour of non-work demonstrations of capability (e.g., from medical reports, daily living examples, or variability evidence), while still requiring assessors and decision makers to probe contextual factors like employer adaptations. There remain important policy reasons to allow some consideration of such evidence in appropriate cases - for example, to help safeguard against potential fraud, maintain the integrity of the benefits system, or address clear and significant inconsistencies that genuinely undermine a claimant's reported limitations.

This recommendation does not propose a blanket exclusion; rather, it preserves decision-maker discretion while providing greater clarity and reassurance to claimants. The existing assessment frameworks already align with this approach.

24 The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026

Recommendation 1(b)

The Committee recommends that corresponding amendments be made to the assessment regulations - including the Employment and Support Allowance Regulations 2008, the Universal Credit Regulations 2013, and the Personal Independence Payment Regulations 2013 as appropriate - to establish that evidence of functional capacity derived from work activity or workplace performance during the protected period shall not normally be treated on its own as demonstrating sustained capability in any assessment or reassessment, however that assessment was initiated and whether or not it was triggered by the work itself.

This provision should be framed as a statutory evidential weighting direction rather than a blanket exclusion, preserving decision-maker discretion while ensuring that early workplace evidence cannot, of itself, be the basis for a finding of improved functional capacity. It should apply to the same cohort and for the same defined period as the 'Right to Try' guarantee.

Regulatory amendments can deliver strong, near-complete protection for claimants trialling work by introducing binding statutory rules that significantly limit the use of work-context evidence in PIP and WCA assessments during time-limited periods (for example, at least six months). For PIP, this would prevent reductions in Daily Living or Mobility awards due to work tasks in almost all cases; for WCA, it would stop such evidence from affecting LCW or LCWRA decisions as a matter of law. However, regulations cannot achieve absolute or indefinite exclusion of work evidence. Primary legislation requires assessments to be holistic and to focus on reliable functional ability (safely, repeatedly, to an acceptable standard, in reasonable time, accounting for pain, fatigue or fluctuations). In rare, extreme cases where work evidence is overwhelmingly contradictory - for example, sustained unadapted physical work directly contradicting a severe mobility claim, or complex unadapted tasks belying reported cognitive limitations - assessors must still be able to consider it. The Committee acknowledges that decision makers must have discretion to correctly apply the legal criteria whilst mindful the requirement to apply in-work activity in the correct legal context.[25]

The Committee acknowledges that this would be challenging but we are of the strong view that further action is necessary for the policy intent to be realised. However, we do not consider that the regulatory amendments recommended above should delay the passage of the current regulations, which represent a necessary first step. Therefore, we believe that claimants who commence work under the regulations as currently drafted should be protected from the outset through guidance.

[25] Applying Regulations 4 and 7 of the PIP Regulations 2013 and considering the similar concepts of reasonable regularity and some degree of repetition for work capability assessments.

Recommendation 2

The Department should issue guidance to assessment providers immediately, directing that functional capacity demonstrated in a work setting should not be treated as evidence of sustained, reliable capability for PIP or WCA purposes during the first six months of employment, voluntary work or public office commenced under the guarantee. This guidance should be issued through existing mechanisms for updating assessment provider instructions and should remain in force until superseded by the regulatory amendments recommended above.

This approach covers most everyday scenarios effectively, and can be implemented quickly through operational updates, consultations, and training to build trust and encourage work trials. It provides substantial practical protection in the short term, serving as a bridge to stronger regulatory changes while testing the policy in real-world application.

Amended guidance will offer meaningful but weaker protection compared to regulations for both PIP and WCA assessments because they are non-statutory and do not create binding legal obligations. This results in less certainty for claimants, as the protections are not enforceable at higher levels (for example, tribunals may not treat guidance as binding), and they depend on consistent application, training, and communications rather than enforceable statutory rules. Guidance can strongly discourage or significantly reduce the weight given to work evidence during trial periods, but it cannot completely prevent assessors from considering work-related evidence in every situation and cannot require assessors to ignore information that genuinely and seriously undermines the claimant's reported limitations under the reliability rules.[26] This leaves a broader "gap" than regulations would, making guidance more vulnerable to variation, individual interpretation, or future policy shifts.

Guidance changes would provide meaningful protection in both PIP and WCA assessments by strongly discouraging reliance on work evidence during trial periods, or substantially reducing the weight given to it. However, that protection would be weaker than if the changes were made in regulations. Because guidance is non-statutory, it does not create binding legal obligations. That means claimants have less certainty: the protections are not enforceable in the same way, higher-level decision-makers such as tribunals may not treat them as binding, and their effect depends on consistent application through training, communications, and operational practice rather than on enforceable legal rules. Consequently, compared with regulations, guidance is more vulnerable to variation in practice, individual interpretation, and future policy change.

Hence, the Committee's primary recommendation is regulatory; guidance is an interim measure, not a substitute.

Protecting the downside

A credible 'Right to Try' should also include explicit assurance that leaving work for health reasons within the protected period will be accepted as "good reason." The Committee considers that a

[26] *Ibid*

simplified and more transparent articulation of "good reason" in this context would materially strengthen the credibility of the guarantee.

Recommendation 3

The Committee recommends that the Department issue updated guidance establishing that leaving employment or voluntary work due to health reasons within the protected period will, in the absence of evidence to the contrary, be accepted as good reason for the purposes of any sanctions and conditionality decisions.

That guidance should provide greater clarity for work coaches, decision makers and assessment providers to ensure that the 'Right to Try' protections are applied consistently. This guidance should also address, in particular, claimants with fluctuating conditions, dual UC/ESA and PIP claimants, and UC claimants without LCW or LCWRA whose work attempts later prove unsustainable because of their health due to a deterioration in health or the unsustainability of the role.

This guidance should be issued alongside the interim evidential weighting direction recommended above, so that claimants and decision-makers receive a coherent account of the protections available across the full arc of the work attempt. Where the Department concludes that the current regulatory framework does not permit the guidance to operate with sufficient certainty, the Committee recommends a corresponding regulatory amendment to place this protection on an explicit statutory footing.

Summary

The above recommendations meet the statutory requirement for holistic and reliable functional assessments, while supporting the important goal of encouraging people to try work without fear of losing their benefits. We believe they can be delivered lawfully within the Secretary of State's existing delegated powers to set detailed rules on evidence and how assessments are carried out.[27] Specifically, introducing a statutory presumption against placing too much weight on activities performed in a work context during a time-limited trial period (for example, at least six months), with sensible safeguards such as requiring non-work evidence to support claims, fits squarely within those powers and with the original parliamentary intent behind the legislation.

Guidance in the PIP Assessment Guide and WCA Handbook interprets, but does not rewrite, existing regulations. A discretionary presumption against work-context evidence during trials, prioritising non-work demonstrations while probing adaptations and variability, aligns with reliability

[27] Regulatory amendments fall within ss.80–83 Welfare Reform Act 2012 (PIP) and WRA 2007 equivalents (WCA/ESA/UC), enabling evidence and reliability rules. The presumption with exceptions for probative cases under Reg. 4/Reg. 19 avoids ultra vires or irrationality, enhancing holistic assessments. Equality Act compliance via impact assessments differentiates from RF v SSWP [2017] EWHC 3375 (Admin), where regulations discriminating against mental health claimants (limiting mobility to non-psychological distress) were quashed as ultra vires and discriminatory.

requirements. Framing it as a presumption preserves individual discretion and avoids unlawful fettering.[28]

Keeping a narrow discretion to consider work evidence in rare, exceptional cases, where it is clearly and strongly contradictory to the claimant's reported limitations, directly respects the primary-law duty to look at all relevant material. This balanced approach avoids any real risk of the changes being ruled ultra vires or irrational under Wednesbury principles.

These recommendations provide ways to complete the logic of the 'Right to Try' Guarantee. The first prevents work from automatically triggering reassessment; the second ensures that work-related evidence from the initial period cannot be treated as determinative of improved capability, including providing immediate guidance to assessment providers until the regulations are amended. The third protects against the consequences of employment not working out. In combination, they create a coherent and time-limited protection that aligns the procedural rules and the evidential treatment of early workplace activity, ensuring that claimants who try work are not placed at greater risk for doing so.

Communications

In considering the intended purpose of these regulations, the Committee reflected on the tension - acknowledged in our earlier correspondence to the Minister for Social Security and Disability but less explicit in the draft regulations - between supporting disabled people and those with health conditions into sustained employment and the longstanding policy aim of reducing benefit caseloads. This tension continues to shape claimant perceptions and may limit the extent to which reassurance can be achieved without fuller reform. The Committee stresses that a credible 'Right to Try' must avoid any implication that the policy is driven primarily by caseload reduction rather than enabling this group to explore work opportunities safely.

The Committee also noted that the scope of the proposed protections mirrors the Department's administrative definition of "disabled people"—that is, individuals currently meeting LCW/LCWRA criteria or holding a PIP award. For many people, including those awaiting a WCA, those who have previously failed one, or those who are disabled but do not fall within these categories, this boundary may feel artificial. The Committee is concerned that such a limited definition may unintentionally exclude groups for whom the fear of reassessment is equally acute.

The Committee further reflected on the distinction between disability and incapacity in the benefit system. A claimant may be disabled without being incapable for work, and vice versa. Clearer communication of this distinction will be important in ensuring that claimants understand the limits of the protections offered under the regulations.

[28] Guidance interprets regulations without change, remaining lawful via a discretionary presumption upholding Reg. 4/Reg. 19 duties. This avoids fettering per British Oxygen Co v Minister of Technology [1971] AC 610 (authorities may adopt presumptions if open to exceptional arguments). Rationality is supported by policy alignment (e.g., 2026 PIP extensions), reducing challenge risks unlike flawed consultations in Clifford v SSWP [2025] EWHC 48 (Admin), where a rushed, misleading WCA consultation was quashed for inadequate explanation and improper motives.

28 The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026

The Department's memorandum to the Committee rightly emphasises the importance of the communications and guidance that will accompany the regulations. It recognises that misunderstandings could arise if customers assume they are fully protected from reassessment while working and that, without careful messaging, this could deepen mistrust rather than reduce it. It also acknowledges that any activities customers undertake while working can still be considered as part of a reassessment, provided that working is not the sole reason for review, and that this needs to be explained clearly. Given the complexity and potential for misunderstanding, the Committee emphasises the importance of ensuring that claimant-facing communications must not be used to imply assurances that have no statutory foundation. The Department should also ensure that communications to assessment providers explicitly reflect the evidential safeguards, in order to avoid misalignment between public statements and assessment practice.

Your officials described their intention to adopt a "test and learn" communications approach aimed at claimants, stakeholders and the media. This is expected to include myth-busting around common misunderstandings (for example, in relation to the permitted work) and improving awareness of UC work allowances, tapers and the ESA permitted work rules. Committee members welcomed this focus, but also raised concerns that if early cases under the 'Right to Try' banner result in negative outcomes for claimants, those experiences could quickly gain prominence and undermine the credibility of the policy. A widespread perception that the 'Right to Try' is merely cover for a form of entrapment would be particularly damaging.

In our view, there is a particular reputational risk if a strong public message that "trying work will not trigger reassessment" is seen as offering a broad guarantee, while the underlying legal and operational reality remains more limited. This is a particularly difficult and challenging message to impart. The Department's own analysis identifies this risk and proposes to mitigate it through careful communications. For that to be effective, the messaging must go beyond general assurances and include clear, practical examples – tested with claimants and advisers – that show where the protections begin and end. As one stakeholder told us "*You can't communicate your way out of a bad policy. Advisers will tell people the truth - and they'll trust us, not the posters*."

Recommendation 4

The Department should ensure that its communications strategy is firmly aligned with the realities of the regulations and guidance as drafted, as well as the wider assessment framework, so that claimants are not inadvertently misled. Messaging should be tested with claimants and advisers to check that it does not over-promise or imply a guarantee that the regulations do not provide, and it should be adjusted in the light of early experience. Communications should also be directed explicitly at assessment providers, who play a critical role in interpreting work activity. Stakeholders advised that without alignment across work coaches, decision-makers, assessors, and tribunals, a coherent message cannot be achieved.

In is our view that further structured engagement is needed to understand directly from claimants who may be impacted by these proposals what would give them genuine confidence to attempt work.

Recommendation 5

The Committee recommends that the Department extends its engagement with current and recent benefit claimants, disabled people's organisations, and frontline advisory services to establish what specific package of guarantees would provide sufficient confidence for claimants to attempt work. This should include exploring what more can be done to enable individuals to be able to be able to take up public appointments.29

This engagement should not be limited to testing the acceptability of the current proposals, but should determine the minimum conditions including the duration, scope, and legal status of any protections under which the ‘Right to Try’ would be regarded as a genuine and reliable guarantee.

The Department should additionally adopt a ‘test and learn’ approach to certain aspects of the proposals, including the effectiveness of the planned communications approach. The findings of this, and the wider stakeholder engagement we have proposed, should inform a further legislative proposal, developed collaboratively, which places the ‘Right to Try’ on a footing that reflects claimants’ actual experience of risk rather than the Department's assessment of what ought to be reassuring.

We seek a commitment from the Department that it will report back to the Committee within twelve months on progress toward a legislative framework that reflects the evidence gathered from claimants about what a meaningful ‘Right to Try’ requires.

This engagement should include, but not be limited to, testing the viability of broader options - such as reforms to linking rules, extended periods of evidential protection, simplified rules governing conditionality during work attempts, a return to the same level of benefit entitlement and exploring a no reassessment guarantee. These options may, in practice, be necessary to secure the level of confidence claimants require, exploring a no reassessment guarantee and to test and learn certain Right to Try initiatives along with communications methods.

Conclusion

In conclusion, the Committee welcomes the Government’s intention to provide disabled people and those with health conditions greater confidence to try work without fear of triggering reassessment. However, while the Committee welcomes this initial step, it is our view that the current proposals represent a cautious starting point rather than the comprehensive package likely to be required to secure claimant trust. The Committee therefore urges the Government to view these regulations as an initial phase within a wider programme of reform. Our scrutiny indicates that achieving this aim will require greater strengthening of, and clarity in, claimant communications and operational guidance. By addressing the risks of misunderstanding, strengthening the safeguards around how work activity is interpreted in assessments, and ensuring consistency with existing frameworks, the regulations have the potential to make a

meaningful contribution to improving trust and supporting more people to explore work opportunities.

The Committee does not wish to delay the implementation of the proposed regulations, as these represent an important first step. However, strengthened guidance is necessary from the outset to ensure that claimants who commence work under the regulations are protected, while the Department gives consideration to future regulatory changes in line with our recommendations above.

19 March 2026

Social Security Advisory Committee Memorandum

Part 1 - Policy

1.1 Policy objective

1. These Regulations aim to deliver on the Labour manifesto commitment to give "*disabled people the confidence to start working without the fear of an immediate benefit reassessment if it does not work out*".
2. To help achieve this the Government is bringing forward *The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026.* These aim to clarify in law that trying work, including voluntary work, will not, in and of itself, trigger a Personal Independence Payment (PIP) award review or a Work Capability Assessment (WCA) reassessment for New Style Employment and Support Allowance (NS ESA) and Universal Credit (UC) Health customers.
3. These amended Regulations confirm the existing policy position that taking up work is not a criterion in the assessment of LCW/LCWRA for UC, NS ESA, or in the assessment for PIP. They also clarify that permitted work rules under NS ESA remain unchanged. (described below). They do not prevent reassessment if there is another material change in circumstances or in cases where fraud is suspected.
4. There are already provisions in UC, NS ESA and PIP for working while retaining entitlement to each benefit. These are as follows:

1.2 UC

5. UC is an in and out of work benefit, UC has a work allowance and an earnings taper. The work allowance is how much you can earn before your UC payment is reduced, for those with Limited Capability for Work (LCW) and Limited Capability for Work-Related Activity (LCWRA) status.
6. In November 2024, 7% of UC Health claimants with LCWRA were in work. For UC Health claimants with LCW the figure was 17%[29].

[29] Source is table T2.3 in the Pathways to Work Evidence Pack **UC-H Claimants in work**

1.3 New Style ESA (NS ESA)

8. There are several rules that allow NS ESA customers to try out work without fear of losing their benefit entitlement. In November 2024, 14% of NS ESA claimants were in work[30].
9. Claimants must declare all Permitted Work (PW) at the outset of the claim if they are in current work, or as soon as practicable when their circumstances change/ they begin work. Claimants are required to complete a PW1 form, and a Decision Maker then decides whether the work falls into the PW rules. These allow those claiming ESA to work fewer than 16 hours a week and earnings must not exceed 16 x national minimum wage (currently £195.50 a week).
10. There are also Supported Permitted Work rules which mean that claimants with a support worker from a local council or voluntary organisation can work for more than 16 hours but not earn more than £195.50 per week and continue to retain their entitlement.
11. NS ESA customers can do voluntary work without it affecting their claim.
12. Finally, 'linking rules' allow customers coming off ESA to reclaim within 12 weeks without needing to undergo a new WCA (provided there is no change in circumstance). This only applies if they do not claim UC when in work, as once on UC there is no route back to ESA.

1.4 PIP

13. The proportion of the PIP (working age) caseload that were employed in 2024 was 20%. This excludes Scotland, where disability benefits are devolved[31].
14. Individuals can receive PIP whilst engaging in part-time or full-time work, without any impact on their PIP award. PIP is non-means tested and paid tax free. Neither income nor savings affect eligibility.

1.5 Customer awareness

15. Despite these rules, DWP research[32] suggests there is insufficient awareness of these rules. It also suggests that customers' commonly worry that engaging with employment support may lead to pressure to look for unsuitable work. Or that working could trigger a Work Capability Assessment or PIP award review, which in turn, may mean that they may not get their benefits back if they tried paid employment which did not work out. Nearly 50% of ESA/UC health customers agreed with the statement "*I am worried that I wouldn't get my benefits back if I try paid employment and then it doesn't work out*".
16. This suggests some of this reluctance to try work is driven by a lack of understanding of how the current rules work, alongside fears of losing benefits due to a reassessment. While these changes reflect the current stated approach in each of these benefits, this has not previously been legislated for.
17. By amending legislation, the Government's aim is that this legislation sends a clear message on the Department's rules on working on benefits. The intention is to give further encouragement to people with health conditions and/or disabilities to try work while claiming.

[30] Source is FoI Case Details - FOI2025/60748 - eCase and Stat Xplore
[31] Source is table T2.17 in the Pathways to Work Evidence Pack PIP Claimants in work
[32] Summary: The work aspirations and support needs of claimants in the ESA Support Group and Universal Credit equivalent - GOV.UK

Part 2 - Impact

2.1 Evidence and Rationale

18. The evidence for the regulatory changes includes DWP research 'The work aspirations and support needs of claimants in the ESA Support Group and Universal Credit equivalent'. This analysis finds that "*taking up paid employment and moving off benefits is therefore seen as high-risk, including concern about having an income gap when moving between benefits and work. Awareness of existing initiatives to de-risk paid employment (such as permitted work) was low and fear that engaging in work-related activities would trigger a work capability assessment reassessment was also common."*

19. As well as this DWP research, the Joseph Rowntree Foundation released the paper 'Unlocking benefits: Tackling barriers for disabled people wanting to work'[33]. This outlines some of the risks associated with moving towards work, their findings show that 'almost three-quarters of work-related disability benefits recipients we surveyed said that fear of losing benefits was a significant or very significant barrier to work.' One of the key aspects of this fear included 'fear of trying work or engaging with employment support leading to benefit reassessments, loss of Personal Independence Payment (PIP) or extra support in UC, increased conditions, or the risk of sanctions.
20. Despite work not being a trigger for a reassessment or award review within current guidance, all of this research shows that many UC, NS ESA, and PIP customers associate trying work with a fear of reassessment. As such, these changes aim to set out plainly that paid and voluntary work will not trigger a reassessment.

2.2 Regulatory Clarity and Alignment

21. The draft Regulations insert new paragraphs into Regulations 41 of the UC Regulations 2013 and Regulation 15 and 30 of the ESA Regulations 2013 making it clear that doing paid or voluntary work is not a relevant change of circumstances for a WCA reassessment.
22. A new paragraph (2) is inserted into Regulation 11 of the PIP Regulations 2013 to say that a claimant doing paid or voluntary work cannot be used as a reason to reassess them.
23. A key policy design principle was that any amendments to benefit rules as part of the Right to Try policy should work within existing benefit rules/principles.
24. The Regulations clarify in law that paid and voluntary work will not, in and of itself, trigger a reassessment, this will give UC, NS ESA and PIP customers more confidence to try work.
25. During the SSAC pre-meet of these Regulations on Monday 13th October 2025, the SSAC highlighted the importance of any accompanying communications to customer in order to effectively deliver the Regulations policy objective. These supporting communications are crucial to deliver the objective of increasing customer's understanding of in work benefit rules and ultimately give them the confidence to try work.
26. A key policy design principle was that any amendments to benefit rules as part of the Right to Try policy should aim to work within existing benefit rules/principles. These Regulations clarify what is already current procedure across PIP, NS ESA, and UC. However, this has not previously been legislated for, by amending legislation, the aim is that the Government will send a clear signal about the Department's commitment to encouraging more people with health conditions and/or disabilities into work.
27. By their very nature the Regulations reduce but do not remove the Secretary of State's power to use his discretion in reassessments for those working while claiming.

[33] Unlocking benefits: Tackling barriers for disabled people wanting to work | Joseph Rowntree Foundation

28. These changes still mean that for anything that would normally trigger a reassessment, such as a change of circumstances as well as suspected fraud, a customer can still be referred to a Decision Maker to determine whether a reassessment is required.
29. There could be an unintended consequence of claimants misunderstanding the Regulations and interpreting them as a form of “no reassessments guarantee for trying work”.
30. Which could result in customer assuming that once working they will not be re-assessed for any reason. There is a scenario, whereby someone claiming and working could report another material change of circumstances, which could lead to that customer being called for a WCA reassessment or PIP award review. If, they had assumed that these Regulations protected them from this outcome, this could risk deepening customers’ mistrust of the Department. We plan to mitigate this by sending clear messaging about the purpose and effect of these Regulations and what they do not cover to prevent misunderstanding.
31. These Regulations are assessed as a neutral amendment to the statute book which neither reduce nor increase overall complexity. There are minimal operational changes needed, although we plan to amend guidance to make the existing rules clearer for DWP colleagues who administer these benefits. We are working with communications colleagues to deliver a plan on how to communicate the Regulations to ensure that customers are aware of the current rules and that paid and voluntary work, in and of itself, will not result in a reassessment or a loss of benefits. Further details of out communications plan are in section 2.12.
32. Beyond some changes to guidance and communications, there will be no substantial burden to the Department, individuals, other parts of central government, local authorities, employers, the voluntary sectors or others.

2.3 Consequence Analysis and impact

33. As of May 2025, there were 742 000 NS ESA claimants. In November 2024, 14% of NS ESA claimants were in work. As of July 2025, there were 3.8 million claimants entitled to PIP. The proportion of the PIP (working age) caseload that were employed in 2024 was 20% (excludes Scotland, where disability benefits are devolved). As of June 2025, there are 301 000 UC customer with a fit note, 409 000 LCW and 2.18m LCWRA. This makes a total of 2.89m on the UC Health Journey of 7.85m people on UC. In November 2024, 7% of UC Health claimants with LCWRA were in work. For UC Health claimants with LCW the figure was 17%.
34. The proposed Regulations will apply to all UC, PIP, and NS ESA customers. They aim to reduce fears about claiming while working and to encourage more to try work while retaining to entitlement to these benefits,
35. The potential winners are the existing UC health NS ESA, and PIP customers who had previously avoided trying work due to fears who after these Regulations do try working.
36. We assume these Regulations will make a positive change which we hope will encourage more claimants to try work while claiming, we currently lack empirical evidence that would enable us to confidently estimate how many additional customers would try result as a result of these changes.
37. This provision does not guarantee a customer cannot be called for a reassessment for any other reason whilst they are working. Evidence from the type of work can still support reassessment. The restriction is on using the fact of working as the sole reason. This aligns with the existing position that taking up work is not a criterion for a WCA assessment for PIP award review.
38. However, if these regulations are not supported by an effective communication campaign, there could be consequential impacts if customers assume that they do not need to continue to work within all relevant working while claiming rules.

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39. The Secretary of State will retain broad powers to reassess, including in cases of suspected fraud. There is therefore a risk of unintended consequential impacts of customers not being clear that they can be called for a reassessment for any other material reason (i.e. suspected fraud or an improvement in health function). We plan to mitigate this possible consequential impact with careful communications of what the Regulations do and do not do, so customers can try work confidently without confusion or any unintended consequences that derive from it.
40. In order to not undermine customers' trust, we will draw out clearly in any communications that any activities customers do whilst working can be considered in as part of a reassessment.
41. During meetings with stakeholders, including charities, academics, customers with lives experiences in our Right to Try Collaboration Committees, feedback was positive to these Regulations. The Committee viewed the Regulations as a positive change in helping build customers understanding and certainty of working on benefits.
42. The Department has already published a draft version of these Regulations, and these have received positive feedback from Parliamentarians and other relevant external stakeholders.
43. The aim of the Regulations is to send a strong message on the Department's stance on working on benefits. This message can be easily understood by various stakeholders and benefit advisory services, resulting in clearer advice and customer understanding across the board.

2.4 Public Sector Equality Duty

44. The regulations will apply to everyone receiving PIP, NS ESA, and all UC customers who have Limited Capability for Work (LCW) and Limited Capability for Work Related Activity (LCWRA). These claimants will likely share the protected characteristic of disability (as these benefits are aimed at those with long term health conditions or disabilities).
45. Consideration of the protected characteristics for the specific groups affected by our policies has been detailed in 2.5 Grid in the Equality Assessment. The protected characteristics affected by the proposed legislation are disabled people, age, and pregnant and maternity. Full details can be found in the Equality Assessment; however, we expect we do not anticipate any adverse impacts.
46. The DWP have been working closely with charities, Disabled People's Organisations and other experts in a Right to Try Collaboration Committee to consider how the Government could strengthen the Right to Try proposals. Following these meetings, the DWP are planning for the next steps of Right to Try to focus on strong communications to improve customers understanding of the rules of working whilst on benefits.
47. The service delivery plan will focus on how we deliver messaging about the Right to Try policy and existing in-work features on health and disability benefits to frontline staff. This will include updating guidance and determining the most effective way to communicate the right to try work and in work features to customers, starting with user research to understand their preferred channels and tone. We will adopt a phased approach starting small and scaling up to build trust and avoid creating fear.
48. DWP Right to Try Work policy team will seek insights from operational teams to monitor the impact of the regulations will be long term. The regulations will exist alongside improved communications that the DWP are developing that will improve customer understanding of the rules whilst working on benefits.

49. Indirect/broader impacts and consequences

50. The Regulations aim to build claimants confidence to try work whilst on benefits, as noted above, the lack of evidence makes it difficult to confidently predict the direct impact of this

change. Officials will however monitor the data to see if they lead to an increase in the number of customers working on NS ESA, UC, and PIP.

51. The Regulations will make no material change how benefit rules are administered, however, we are aware that non-compliance exists within the system. To avoid cases such as DWP Decision Makers not following guidance, we have been working closely with all product lines such as Work Coaches, Job Centre Plus staff, and Decision Makers, to ensure the Regulations are correctly understood.
52. These Regulations relate to UC and ESA which are reserved in England, Wales and Scotland and transferred (devolved) in Northern Ireland. PIP is devolved in Scotland and Northern Ireland. PIP is reserved in Wales and is wholly transferred in Northern Ireland. PIP was fully devolved to Scotland from April 2020; The Scottish Government have replaced it with Adult Disability Payment (ADP).
53. We have been working closely with Department for Communities, to keep them updated on the progress. Department for Communities (DfC) officials advise that they will seek to maintain parity. This would ensure a consistent approach across jurisdictions which offers the same opportunities and safeguards for individuals seeking to test their ability to work without affecting their benefit, with the potential to lead to a smoother transition from benefits into the labour market for those who are able to maintain work. This will be subject to NI Ministerial and other approvals as part of the separate Northern Ireland legislative process.

2.5 Consultation

54. Right to Try policy was announced in the Pathways to Work Green Paper[34]. A Right to Try question was included in the consultation questions, the question was *'What further steps could the Department for Work and Pensions take to make sure the benefit system supports people to try work without the worry that it may affect their benefit entitlement?'.*
55. Respondents could provide feedback in the form of a written response (either via an online form, email or post), or in person at one of the public consultation events held across the UK and virtually. The consultation ran from 18 March to 30 June 2025 and, in total, received a total of 47,983 responses.
56. The Right to Try consultation question received 8,090 responses[35]. Respondents most commonly suggested the offer of flexible support and benefit adjustments through trial work periods, and tapering benefits as earnings rise, would provide further reassurance (20%), however this would run counter to the policy design principle for Right to Try to sit within existing benefit rules.
57. There were also calls for greater clarity to reassure people about the impact of work on their benefits and the support already available, this reinforces the need for the proposed legislation to provide customers with assurance that work, in and of itself, will not trigger a reassessment.
58. We have been in informal consultation with stakeholders through a Right to Try Collaboration Committee. This comprised of representatives from charities, Disabled People's Organisations, people with those with lived experiences and other experts. The Committee were positive about these proposed Regulations; they agreed that the Regulations met the intended aim to give customers more confidence to try work on benefits.
59. The Collaboration Committee has met four times from 22nd July to 13th November, in sessions lasting between 2-3 hours. The discussions have centred around how to give disabled people on benefits more confidence to try work. During the sessions, the draft

[34] Pathways to Work: Reforming Benefits and Support to Get Britain Working Green Paper - GOV.UK
[35] Government Response to the Pathways to Work Consultation - GOV.UK

Regulations were discussed and much of the committee were content that the Regulations delivered on the aim to clear up misconceptions around working on benefits.

60. Following engagement with the Collaboration Committee, voluntary work was added to the regulations after the importance of volunteering as a stepping stone to employment was discussed in the sessions.

2.6 Implementation practicalities

61. We have worked closely with delivery colleagues to ensure that this policy can be effectively implemented. As there are no material changes to existing operational procedures, the focus of implementation work will be on making guidance for Decision Makers clearer to safeguard correct application of the rules, as well as the supporting communications campaign.

2.7 Interaction with Devolved Administrations

62. These measures primarily relate to UC and ESA which are reserved in England, Wales and Scotland and transferred (devolved) in Northern Ireland. Adult Disability Payment has replaced PIP in Scotland, so PIP is devolved in Scotland as well as Northern Ireland.
63. We have also been in regular contact with Department for Communities, who are part of the Northern Ireland Executive, throughout the policy creation and development process. We have met with Department for Communities roughly once a month to provide updates.

2.8 Financial Considerations

64. There are no costs or savings associated with the Regulations. There may be some nominal costs associated with a communications plan.
65. No drawbacks have been identified as the Secretary of State retains broad powers to reassess, including but not limited to, in cases of suspected fraud.

2.9 Monitoring and Evaluation

66. We will continue to monitor the proportion of claimants in work for each benefit line.

2.10 Communication and Guidance

67. Our communications campaign will primarily target people with disabilities and health conditions to help raise awareness of the new Right to Try Work policy and providing reassurance that taking part will not trigger a reassessment.
68. Media planning recommendations are in the process of being finalised, though they will likely include paid search advertising on platforms such as Google and Bing, along with social media advertising (Facebook, Instagram etc.). JobHelp will act as the central hub for information, hosting expanded content on job search support, benefits, and JCP services. Given sensitivities around fear of losing benefits, we will adopt a test-and-learn approach rather than a large-scale launch.

69. Media and stakeholder activity will include issuing a UK-wide press notice, with tailored versions for Wales and Scotland; pre-briefing supportive stakeholders to amplify messaging on social media and inform service users; publishing an article in Touchbase; and sharing updates with disability and welfare advice groups, employer bodies, and sector representatives. We will also ensure inclusive outreach through partnerships with disability groups serving ethnic minority communities.

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70. To support the implementation of these Regulations we will update guidance to make it clear that paid and voluntary work (within the permitted allowances) do not, in and of themselves, trigger a reassessment. We will also engage closely with delivery colleagues in each benefit lines to support the understand of the guidance updates.

71. We will review existing guidance and make clear that paid and voluntary work, in and if itself, will not trigger a reassessment.

Part 3 - The SSAC meeting

3.1 Key discussion points

Discuss current regulations- what they do, what they aim to achieve,

Communications plans

3.2 Attendees

Graeme Connor, Deputy Director for Health & Disability Reform Division

Alex Fleming, Head of Right to Try policy with expertise in NS ESA

Sonal Devshi, Right to Try policy Leader

Caitlin McCourt, Right to Try policy

Communications colleagues TBC

Annex A - Covering letter sent to SSAC

Department for Work & Pensions

Health & Disability Reform Policy Division

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Dr Stephen Brien
Chair
Social Security Advisory Committee
Caxton House
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SW1A 9NH

9th January 2026

Draft Regulations for consideration: *The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026*

Dear Stephen,

Ahead of the committee's scrutiny of the above regulations next January, I attach with this letter the draft Statutory Instrument, a SSAC Memorandum, Equality Impact Assessment and Keeling Schedule for reference.

The purpose of this letter is to ask the Committee to scrutinise these regulations, in accordance with section 172 of the Social Security Administration Act 1992.

There are already rules in place that are intended to encourage working-age people who are in receipt of health and disability benefits (PIP, UC and NS ESA) to try work. Yet, DWP research suggests there is a lack of awareness of, and willingness to take advantage of these rules.

It also suggests that customers commonly worry that engaging with employment support may lead to pressure to look for unsuitable work. Or that working could trigger a WCA or PIP award review, which in turn, may mean that they may not get their benefits back if they tried paid employment that did not work out.

By amending legislation as we propose, the Government aims to send a clearer signal about the Department’s commitment to encouraging people with health conditions and/or disabilities to try work (including voluntary work) without threat of reassessment.

If passed, the regulations clarify in law that work and volunteering in itself will not trigger a Personal Independence Payment (PIP) award review or a Work Capability Assessment (WCA) reassessment for New Style Employment and Support Allowance (NS ESA) and Universal Credit (UC) health customers.

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These regulations have been drafted carefully to ensure that reassessments can still occur if there are other changes in circumstances (e.g. a change in a claimant's health condition or in cases of suspected fraud).

I hope this letter and enclosures will be helpful to the Committee. Officials will attend the Committee's meeting on 21st January 2026 to answer any queries that members may have, and I would be happy to provide any further information that the Committee may require in the meantime.

[REDACTED TEXT][36]

Sonal Devshi
Right to Try Work Policy

[36] This response from DWP provided information relating to consideration or development of government policy. This text has been redacted at the request of the Department.

Annex B - Equality analysis accompanying the SSAC Memorandum

Equality Analysis for The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026

Completed by: Caitlin McCourt, Right to Try Policy, Health & Disability Reform Division

Date: 10/11/2025

Document Control

Key Personnel

Title	The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026
Author	Caitlin McCourt
Approver	Graeme Connor SCS 1
Owner	Health & Disability Reform Division

Version History

Version	Date	Summary of changes	Changes marked
1	10/11/2025	Initial draft	No changes
2	15/11/2025	Legal comments	Changes added
3	03/12/2025	Alex Fleming Head of policy for RTT comments	Changes added
4	09/12/2025	Graeme Connor Deputy Director comments	Changes added
5	08/01/2026	Graeme Connor Deputy Director comments	Changes added

Abbreviations - TO BE UPDATED WHEN DOCUMENT IS COMPLETED

BAU	Business As Usual
DWP	Department for Work and Pensions
EA	Equality Analysis
GLD	Government Legal Department

LGBO	Lesbian, Gay, Binary, Other
PC	Protected Characteristics
PSED	Public Sector Equality Duty

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DWP Department for Work and Pensions

Introduction

This document records the analysis undertaken by the Department to enable DWP to consider the needs of individuals in their day to day work - in shaping policies, making secondary legislation, delivering services, and in relation to their own employees to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010.

The PSED requires a public authority to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

The above requirements apply to eight of the nine protected characteristics – age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The protected characteristic of marriage and civil partnerships are slightly different in that the requirement is only in respect to have due regard to the need to eliminate discrimination.

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Brief outline of policy or service and main aims and outcomes

Working on Universal Credit (UC), New Style Employment and Support Allowance (NS ESA) and Personal Independence Payment (PIP).
There are already provisions in UC, NS ESA and PIP that allow customers to work while retaining entitlement to each benefit. These are as follows:

NS ESA

Claimants must declare all Permitted Work (PW) at the outset of the claim if they are in current work, or as soon as practicable when their circumstances change/ they begin work. Claimants are required to complete a PW1 form and a Decision Maker then makes a decision as to whether the work falls into the PW rules. PW rules allow those claiming ESA to work fewer than 16 hours a week and earnings must not exceed £195.50 a week (16 x national minimum wage). There are also Supported Permitted Work rules which mean that claimants with a support worker from a local council or voluntary organisation can work for more than 16 hours but not earn more than £195.50 per week. ESA customers can do voluntary work without it affecting their claim, as well as exempt work which allows customers to do certain categories of work without it affecting their claim such as work as a councillor or Tribunal member.

Finally, 'linking rules' allow customers coming off ESA to reclaim within 12 weeks without needing a new WCA (provided there is no change in circumstance). This only applies if they do not claim UC when in work, as once on UC there is no route back to ESA.

UC

UC is an in and out of work benefit, UC has work allowances and an earnings taper. The work allowance is how much you can earn before your UC payment is reduced, for those with Limited Capability for Work (LCW) and Limited Capability for Work-Related Activity (LCWRA) status.

PIP

Individuals can receive PIP whilst engaging in part-time or full-time work, without any impact on their entitlement/ award. PIP is non-means tested and paid tax free. Neither income nor savings affect eligibility.

The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026
The Labour Party Manifesto commits to giving "*disabled people the confidence to start working without the fear of an immediate benefit reassessment if it does not work out*".

The key policy design principle was that any amendments to benefit rules, as part of the Right to Try policy, aimed to work within existing benefit rules/principles.

To help achieve this the Government is bringing forward the *Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026.* These aim to ensure that trying work, including voluntary work, will not, in and of itself, trigger a Personal Independence Payment (PIP) award review or a Work Capability Assessment (WCA) reassessment for PIP, New Style Employment and Support Allowance (NS ESA) and Universal Credit (UC) Health customers.

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These amended regulations align with the existing policy position that taking up work is not a criterion in the LCW/LCWRA assessment for PIP, UC and within permitted work rules for NS ESA, they do not prevent reassessment if there are a change in circumstances or in cases where fraud is suspected.

The outcome of these regulations is a greater clarity of the rules in law to allow people administering the benefits, such as, DWP Decision Makers, Work Coaches, Job Centre Plus staff to correctly understand the rules and how they are applied. As well as this, these regulations will improve awareness customers of the rules of working whilst on benefits and ultimately result in people on PIP, UC, and NS ESA working while claiming.

Evidence and Rationale

The evidence underpinning this proposed change to regulations includes DWP research 'The work aspirations and support needs of claimants in the ESA Support Group and Universal Credit equivalent'. The analysis finds that *"taking up paid employment and moving off benefits is therefore seen as high-risk, including concern about having an income gap when moving between benefits and work. Awareness of existing initiatives to de-risk paid employment (such as permitted work) was low and fear that engaging in work-related activities would trigger a work capability assessment reassessment was also common."*

As well as DWP research, the Joseph Rowntree Foundation released the paper 'Unlocking benefits: Tackling barriers for disabled people wanting to work'[37]. The paper outlines some of the risks associated with moving towards work, their findings show that '*almost three-quarters of work-related disability benefits recipients we surveyed said that fear of losing benefits was a significant or very significant barrier to work.' On of the key aspects of this fear included 'fear of trying work or engaging with employment support leading to benefit reassessments, loss of Personal Independence Payment (PIP) or extra support in UC, increased conditions, or the risk of sanctions*. Whilst the above evidence suggests a general fear amongst customers on working on benefits and triggering a reassessment, there is a lack of evidence to suggest the proposed regulations will make a direct impact on the number of people claiming benefits whilst working.

Despite work not being a trigger for a reassessment or award review within current guidance, this research shows that many UC, NS ESA, and PIP customers associate trying work with a fear of reassessment. As such, the changes aim to set out plainly that paid and voluntary work will not trigger a reassessment.

Aim of Right to Try regulations

The aim of Right to Try regulations commits to give disabled people the confidence to start working without the fear of an immediate benefit reassessment if it does not work out. These Regulations clarify what is already current procedure across PIP, NS ESA, and UC. However, this has not previously been legislated for, by amending legislation, the aim is to provide certainty of the rules to customers and alleviate fear of working whist on benefits.

The DWP have been working closely with charities, Disabled People's Organisations and other experts in a Right to Try Collaboration Committee to consider how the Government could strengthen the Right to Try proposals. Following these meetings, the DWP are planning for the

[37] Unlocking benefits: Tackling barriers for disabled people wanting to work | Joseph Rowntree Foundation

next steps of Right to Try to focus on strong communications to improve customers understanding of the rules of working whilst on benefits.

As the regulations aim to change customer perceptions of the benefit rules, it is difficult to gauge the indirect effect of customer attitudes on statistics like employment rates etc.

Who will be affected?

The regulations will apply to everyone receiving PIP, NS ESA, and all UC customers who have Limited Capability for Work (LCW) and Limited Capability for Work Related Activity (LCWRA). These claimants will likely share the protected characteristic of disability and age (as these benefits are aimed at those with long term health conditions or disabilities).

This legislation puts current guidance into the statue book. These changes are intended to encourage more claimants of these benefits to try work whilst claiming. We believe, these changes will encourage more claimants to move into work, and this will be beneficial to those with disabilities who are more likely to be older. UC, NS ESA, and PIP are health and disability related benefits, so claimants are more likely to be disabled. Stat-Xplore data shows that the median age of claimants on NS ESA was 56 as of May 2025, the median age of claimants on PIP was 52 as of October 2025, and the median age of UC Health claimants was 46 as of September 2025.

Please use space below to document your evidence

DWP does not hold data on the full range of protected characteristics for the specific groups affected by our policies.

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Please also use grid below to document your evidence

Protected Characteristics	*S.149(1) Equality Act 2010, a public authority must have due regard to the need to:*		
	Eliminate discrimination	Foster good relations	Advance equality of opportunity
Age	The proposed legislation is targeted at people claiming benefits on the grounds of long term health conditions or disabilities , which is likely to include people of older age, however, we do not anticipate any adverse impacts arising.	The policy intent is to give disabled people and people with health conditions more confidence to try work while claiming UC, NS ESA and PIP. People who are older may be more likely to have health conditions and/or be disabled and hence benefit from this policy.	The proposed legislation would provide legal protection for persons with long term health conditions or disabilities who choose to work whilst claiming the affected benefits. This legislation puts current guidance into the statue book. These changes are intended to encourage more claimants of these benefits to try work whilst claiming. However we believe, these changes will encourage more claimants to move into work, and this will be beneficial to those with disabilities who are more likely to be older. Stat-Xplore data shows that the median age of claimants on NS ESA was 56 as of May 2025, the median age of claimants on PIP was 52 as of October 2025, and the median age of UC Health claimants was 46 as of September 2025.

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Protected Characteristics	*S.149(1) Equality Act 2010, a public authority must have due regard to the need to:*		
	Eliminate discrimination	Foster good relations	Advance equality of opportunity
Disability	The proposed legislation is targeted at people claiming benefits on the grounds of disability and health conditions, however, we do not anticipate any adverse impacts arising.	The policy intent is to give disabled people and people with health conditions more confidence to try work while claiming UC, NS ESA and PIP.	The proposed legislation would provide legal protection for disabled people and people with health conditions who choose to work whilst claiming the affected benefits. As UC, NS ESA, and PIP are health and disability related benefits, claimants on these benefits are more likely to be disabled. The proposed legislation would provide legal protection for persons with long term health conditions or disabilities who choose to work whilst claiming the affected benefits. This legislation puts current guidance into the statue book. These changes are intended to encourage more claimants of these benefits to try work whilst claiming. However we believe, these changes will encourage more claimants to move into work, and this will be beneficial to those with disabilities.

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Protected Characteristics	*S.149(1) Equality Act 2010, a public authority must have due regard to the need to:*		
	Eliminate discrimination	Foster good relations	Advance equality of opportunity
Gender reassignment	The proposed legislation will not apply differently on grounds of gender reassignment, and we do not anticipate any adverse impacts due to gender reassignment.	Considered and not applicable.	Considered and not applicable.
Pregnancy and maternity	You can claim UC, PIP, and NS ESA whilst pregnant and in maternity. For UC and NS ESA a woman's MAT B1 is accepted as evidence of having limited capability for work for this period. For PIP, being pregnant and in maternity does not affect someone's ability to claim or receive PIP.	The policy intent is to give disabled people more confidence to try work while claiming UC, NS ESA and PIP. People who are pregnant and in maternity who are on benefits can take advantage of the proposed legislation.	The proposed legislation would provide legal protection for persons with long term health conditions or disabled people who choose to work whilst claiming the affected benefits, including pregnant people and those in maternity. However, they may be less likely to take up work in pregnancy and maternity, and therefore less likely to benefit from the proposed legislation.
Race	The proposed legislation will not apply differently on grounds of race and/or nationality, and we do not anticipate any adverse impacts due to race and/or nationality.	Considered and not applicable.	Considered and not applicable.

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Protected Characteristics	*S.149(1) Equality Act 2010, a public authority must have due regard to the need to:*		
	Eliminate discrimination	Foster good relations	Advance equality of opportunity
Religion or belief	The proposed legislation will not apply differently on grounds of religion or belief, and we do not anticipate any adverse impacts due to religion or belief.	Considered and not applicable.	Considered and not applicable.
Sex	The proposed legislation will not apply differently on grounds of sex, and we do not anticipate any adverse impacts due to sex.	Considered and not applicable.	Considered and not applicable.
Sexual orientation	The proposed legislation will not apply differently on grounds of sexual orientation, and we do not anticipate any adverse impacts due to sexual orientation.	Considered and not applicable.	Considered and not applicable.
Marriage and civil partnership	The proposed legislation will not apply differently on grounds of marriage and civil partnership, and we do not anticipate any adverse impacts due to marriage and civil partnership.	n/a	n/a

Considering United Nations Conventions

Section 149(3)(c) of the Equality Act refers to the need to encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low. The ability to, for example, apply for legal remedies (e.g. judicial/merits review) if work was indeed unlawfully treated as a relevant change of circumstances by the SoS once the regulation comes into effect (which would be in contravention of the proposed regulation) would provide reassurance to persons undertaking work.

The proposed regulations are in line with Art 27 1(e) of Convention on the Rights of Persons with Disabilities (CRPD) (assistance in returning to employment).

Evidence and Analysis Impacts

Right to Try policy was announced in the Pathways to Work Green Paper. A Right to Try question was included in the consultation questions, the question was *'What further steps could the Department for Work and Pensions take to make sure the benefit system supports people to try work without the worry that it may affect their benefit entitlement?'.*

Respondents could provide feedback in the form of a written response (either via an online form, email or post), or in person at one of the public consultation events held across the UK and virtually. The consultation ran from 18 March to 30 June 2025 and, in total, received a total of 47,983 responses.

The Right to Try consultation question received 8,090 responses. Respondents most commonly suggested the offer of flexible support and benefit adjustments through trial work periods, and tapering benefits as earnings rise, would provide further reassurance (20%), however this would run counter to the policy design principle for Right to Try to sit within existing benefit rules.

There were also calls for greater clarity to reassure people about the impact of work on their benefits and the support already available (12%), this reinforces the need for the proposed legislation to provide customers with assurance that work, in and of itself, will not trigger a reassessment.

We have also been in informal consultation with stakeholders through Collaboration Committees. The Collaboration Committees comprise of charities, Disabled People's Organisations, people with lived experiences and other experts. The Collaboration Committee were positive about the proposed Regulations; they agreed that the Regulations met the intended aim to give customers more confidence to try work on benefits.

The Collaboration Committee has met four times from 22nd July to 13th November, in sessions lasting between 2-3 hours. The discussions have centred around how to give disabled people on benefits more confidence to try work. During the sessions, the draft Regulations were discussed and much of the committee were content that the Regulations delivered on the aim to clear up misconceptions around working on benefits.

Following engagement with the Collaboration Committee, voluntary work was added to the regulations after the importance of volunteering as a stepping stone to employment was discussed in the sessions.

Although this information has limitations and does not provide empirical analysis about the protected characteristics of individuals who would be affected by the proposed legislation, the DWP holds the view that the change would be positive in equality terms by advancing equality of opportunity.

The proposed regulations would be a material change to UC, PIP, and NS ESA as, even though the position taken in the regulations is already the policy position, the regulations would provide legal certainty for disabled people and people with long term health conditions who choose to start work. That is, as a matter of law, the SoS cannot require an assessment solely because a person is working.

Summary of analysis

No need for further action. Our assessment has not identified any potential for discrimination, adverse impact or opportunities to advance equality.

The proposed legislation will provide legal certainty for disabled people and people with who choose to work on the affected benefits, the aim of which is to give disabled people and people with health conditions the confidence to start working without the fear of an immediate benefit reassessment if it does not work out.

The proposed legislation would apply to all customers claiming PIP, NS ESA and UC, who are subject to either a PIP assessment or a Work Capability Assessment. The affected claimants will likely share the protected characteristic of disability; however, we do not anticipate any adverse impacts of this policy, this policy will benefit disabled people (including those of other protected characteristics, such as age). There are no negative impacts, we therefore intend to proceed with the proposed legislation.

Plans to monitor and evaluate the equality decision

DWP Right to Try Work policy team will be responsible for monitoring equality impacts and evaluating the equality decision on an ongoing basis as the situation develops. The Department will monitor the legislation by seeking continuous insights from operational teams, the impact of the regulations will be long term. The regulations will exist alongside improved communications that the DWP are developing that will improve customer understanding of the rules whilst working on benefits.

The service delivery plan will focus on how we deliver messaging about the Right to Try policy and existing in-work features to frontline staff. This will include updating guidance and determining the most effective way to communicate the right to try work and in work features to customers, starting with user research to understand their preferred channels and tone. We will adopt a phased approach starting small and scaling up to build trust and avoid creating fear.

The Department will refer it the legislation to the Social Security Advisory Committee for full and formal scrutiny in January 2026, before the legislation comes into force in March 2026. As part of this process, the Department will seek the Committee’s feedback on all equalities impacts of the legislation. The Department will consider all feedback carefully and decide whether further refinements to the policy are needed in light of it.

Outcome of the evaluation

Having conducted this analysis, DWP plans to continue with the proposed legislation to ensure that trying work, including voluntary work, will not, in and of itself, trigger a PIP award review and WCA reassessment.

Sign off

Name of person who carried out this analysis: Caitlin McCourt

Date analysis completed: 09/12/2205

Name of Senior Responsible: Graeme Connor SCS 1

Date assessment was signed: 09/12/2205

Annex C - Keeling schedule

THE UNIVERSAL CREDIT, PERSONAL INDEPENDENCE PAYMENT AND EMPLOYMENT AND SUPPORT ALLOWANCE (AMENDMENT) REGULATIONS 2026

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KEELING SCHEDULE

1. Amendment of the Universal Credit Regulations 2013

When an assessment may be carried out

41.— (1) The Secretary of State may carry out an assessment under this Part where—

(a) it falls to be determined for the first time whether a claimant has limited capability for work or for work and work-related activity; or

(b) there has been a previous determination, and the Secretary of State wishes to determine whether there has been a relevant change of circumstances in relation to the claimant's physical or mental condition or whether that determination was made in ignorance of, or was based on a mistake as to, some material fact,

but subject to paragraphs (1A) to (4).

(1A) For the purposes of paragraph (1)(b), doing work for payment or in expectation of payment, or doing voluntary work, is not a “relevant change of circumstances”.

(2) If the claimant has monthly earnings that are equal to or exceed the relevant threshold, the Secretary of State may not carry out an assessment under this Part unless—

(a) the claimant is entitled to attendance allowance, pension age disability payment, disability living allowance, Scottish adult disability living allowance, child disability payment, adult disability payment or personal independence payment; or

(b) the assessment is for the purposes of reviewing a previous determination that a claimant has limited capability for work or for work and work-related activity that was made on the basis of an assessment under this Part or under Part 4 or 5 of the ESA Regulations,

and, in a case where no assessment may be carried out by virtue of this paragraph, the claimant is to be treated as not having limited capability for work unless they are treated as having limited capability for work or for work and work-related activity by virtue of regulation 39(6) or 40(5).

(3) The relevant threshold for the purposes of paragraph (2) is the amount that a person would be paid at the hourly rate set out in regulation 4 of the National Minimum Wage Regulations for 16 hours a week, converted to a monthly amount by multiplying by 52 and dividing by 12.

(4) If it has previously been determined on the basis of an assessment under this Part or under Part 4 or 5 of the ESA Regulations that the claimant does not have limited capability for work, no further assessment is to be carried out unless there is evidence to suggest that—

(a) the determination was made in ignorance of, or was based on a mistake as to, some material fact; or

(b) there has been a relevant change of circumstances in relation to the claimant's physical or mental condition.

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2. Amendment of the Social Security (Personal Independence Payment) Regulations 2013.

Re-determination of ability to carry out activities

11.— (1). Subject to paragraph (2), where it has been determined that C has limited ability or severely limited ability to carry out either or both daily living activities or mobility activities, the Secretary of State may, for any reason and at any time, determine afresh in accordance with regulation 4 whether C continues to have such limited ability or severely limited ability.

(2) For the purposes of paragraph (1), doing work for payment or in expectation of payment, or doing voluntary work, is not a reason for a fresh determination under this Part.

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3. Amendment of the Employment and Support Allowance Regulations 2013

Determination of limited capability for work

15.—(1) For the purposes of Part 1 of the Act, whether a claimant's capability for work is limited by the claimant's physical or mental condition and, if it is, whether the limitation is such that it is not reasonable to require the claimant to work is to be determined on the basis of a limited capability for work assessment of the claimant in accordance with this Part.

(2) The limited capability for work assessment is an assessment of the extent to which a claimant who has some specific disease or bodily or mental disablement is capable of performing the activities prescribed in Schedule 2 or is incapable by reason of such disease or bodily or mental disablement of performing those activities.

(3) Subject to paragraph (6), for the purposes of Part 1 of the Act a claimant has limited capability for work if, by adding the points listed in column (3) of Schedule 2 against each descriptor listed in that Schedule which applies in the claimant's case, the claimant obtains a total score of at least—

(a)15 points whether singly or by a combination of descriptors specified in Part 1 of that Schedule;

(b)15 points whether singly or by a combination of descriptors specified in Part 2 of that Schedule; or

(c)15 points by a combination of descriptors specified in Parts 1 and 2 of that Schedule.

(4) In assessing the extent of a claimant's capability to perform any activity listed in Part 1 of Schedule 2, the claimant is to be assessed as if—

(a) fitted with or wearing any prosthesis with which the claimant is normally fitted or normally wears; or, as the case may be,

(b) wearing or using any aid or appliance which is normally, or could reasonably be expected to be, worn or used.

(5) In assessing the extent of a claimant's capability to perform any activity listed in Schedule 2, it is a condition that the claimant's incapability to perform the activity arises—

(a) in respect of any descriptor listed in Part 1 of Schedule 2, from a specific bodily disease or disablement;

(b) in respect of any descriptor listed in Part 2 of Schedule 2, from a specific mental illness or disablement; or

(c) in respect of any descriptor or descriptors listed in—

(i)Part 1 of Schedule 2, as a direct result of treatment provided by a registered medical practitioner for a specific physical disease or disablement; or

(ii)Part 2 of Schedule 2, as a direct result of treatment provided by a registered medical practitioner for a specific mental illness or disablement.

(6) Where more than one descriptor specified for an activity applies to a claimant, only the descriptor with the highest score in respect of each activity which applies is to be counted.

(7) Where a claimant—

(a) has been determined to have limited capability for work; or

(b) is to be treated as having limited capability for work under regulation 16, 21, 22 or 25,

the Secretary of State may, if paragraph (8) applies and subject to paragraph (9), determine afresh whether the claimant has or is to be treated as having limited capability for work.

(8) This paragraph applies where—

(a) the Secretary of State wishes to determine whether there has been a relevant change of circumstances in relation to the claimant's physical or mental condition;

(b) the Secretary of State wishes to determine whether the previous determination of limited capability for work or that the claimant is to be treated as having limited capability for work, was made in ignorance of, or was based on a mistake as to, some material fact; or

(c) at least three months have passed since the date on which the claimant was determined to have limited capability for work or to be treated as having limited capability for work.

(9) For the purposes of paragraph (8)(a), doing work for payment or in expectation of payment, or doing voluntary work, is not a “relevant change of circumstances”.

Determination of limited capability for work-related activity

30.—(1) For the purposes of Part 1 of the Act, where, by reason of a claimant's physical or mental condition, at least one of the descriptors set out in Schedule 3 applies to the claimant, the claimant has limited capability for work-related activity and the limitation must be such that it is not reasonable to require that claimant to undertake such activity.

(2) A descriptor applies to a claimant if that descriptor applies to the claimant for the majority of the time or, as the case may be, on the majority of the occasions on which the claimant undertakes or attempts to undertake the activity described by that descriptor.

(3) In determining whether a descriptor applies to a claimant, the claimant is to be assessed as if—

(a) the claimant was fitted with or wearing any prosthesis with which the claimant is normally fitted or normally wears; or, as the case may be

(b) wearing or using any aid or appliance which is normally, or could reasonably be expected to be, worn or used.

(4) Where a determination has been made about whether a claimant—

(a) has limited capability for work-related activity;

(b) is to be treated as having limited capability for work-related activity; or

(c) is to be treated as not having limited capability for work-related activity,

the Secretary of State may, if paragraph (5) applies and subject to paragraph (5A), determine afresh whether the claimant has or is to be treated as having limited capability for work-related activity.

(5) This paragraph applies where—

(a) the Secretary of State wishes to determine whether there has been a relevant change of circumstances in relation to the claimant's physical or mental condition;

(b) the Secretary of State wishes to determine whether the previous determination about limited capability for work-related activity or about treating the claimant as having or as not having limited capability for work-related activity, was made in ignorance of, or was based on a mistake as to, some material fact; or

(c) at least three months have passed since the date of the previous determination about limited capability for work-related activity or about treating the claimant as having or as not having limited capability for work-related activity.

(5A) For the purposes of paragraph (5)(a), doing work for payment or in expectation of payment, or doing voluntary work, is not a “relevant change of circumstances”.

(6) In assessing the extent of a claimant's capability to perform any activity listed in Schedule 3, it is a condition that the claimant's incapability to perform the activity arises—

(a) in respect of descriptors 1 to 8, 15(a), 15(b), 16(a) and 16(b)—

(i)from a specific bodily disease or disablement; or

(ii)as a direct result of treatment provided by a registered medical practitioner for a specific physical disease or disablement; or

(b) in respect of descriptors 9 to 14, 15(c), 15(d), 16(c) and 16(d)—

(i) from a specific mental illness or disablement; or

(ii) as a direct result of treatment provided by a registered medical practitioner for a specific mental illness or disablement.

ENDS

Annex D – Extract of Minutes of SSAC meeting on 21st January 2026

3. The Universal Credit, Personal Independence Payment and Employment Support Allowance (Amendment) Regulations 2026

3.1 The Chair welcomed the following officials to the meeting Graeme Connor (Deputy Director, Health and Disability Reform), Alex Fleming (Grade 6, Health and Disability Reform), Joel Weston (Grade 6, Disability and Health Support), Sonal Devshi (Grade 7, Health and Disability Reform) and Caitlin McCourt (SEO, Health and Disability Reform).

3.2 Introducing the session, Graeme Connor and Alex Fleming explained that the proposed Right to Try regulations form the first stage of what could be an expanded set of policy proposals if Ministers were minded to go further. At a high level, the proposals are intended to encourage more claimants of Universal Credit (UC), New Style Employment and Support Allowance (NS ESA) and Personal Independence Payment (PIP) to engage in paid or voluntary work. The proposals clarify in regulations that doing so will not automatically trigger a reassessment of benefit entitlement. They noted that the policy was first committed to in the 2024 Labour Party Manifesto and then in the *Pathways to Work: Reforming Benefits and Support to Get Britain Working Green Paper*[38]. The Government then published these draft regulations during the passage of the *Universal Credit Act 2025.* In essence, the regulations codify in law policy that has been mandated in guidance for a number of years. By doing so it is hoped that more claimants get a more solid assurance to try work, in contrast to the current picture whereby many claimants do not understand the rules around working and claiming, or do not trust the Department, so avoid taking a chance on work.

3.3 In practice, work coaches and decision makers are already expected to ensure that when a claimant engages in work, or seeks to do so, this does not constitute a relevant change of circumstances which triggers a new Work Capability Assessment (WCA) assessment or PIP award review. However, many claimants have remained fearful that any move into work, including volunteering, might be used against them in a future assessment. By setting out in regulations that undertaking work or voluntary activity alone will not in and of itself trigger a reassessment, the Department hopes to provide greater certainty and visibility than can be achieved through guidance alone.

3.4 The Department outlined how the Right to Try policy could possibly evolve, should Ministers be minded to do so:

- Stage one: Codify current practice in regulations and extend this to voluntary work, thereby clarifying that voluntary activity as well as paid work should not, in isolation, be treated as a reason for reassessment.

[38] Pathways to Work: Reforming Benefits and Support to Get Britain Working Green Paper - GOV.UK

- Stage two: Amend and improve guidance for claimants, staff and stakeholders and conduct a communications plan to clarify both the current rules of working while claiming and the purpose of these regulations.
- Stage three: [REDACTED TEXT][39]

3.5 The Department indicated that while these regulations aim to be a positive enabler which improves employment outcomes, an assessment of impact is constrained by a lack of evidence, On this point it also noted that given the variety of barriers people with health conditions and disabilities can have (which can be transient or can change), there are real methodological challenges in evaluating whether a small benefit rule change like this will be the deciding factor in moving people into work. However, it is confident that these regulations should be seen as a positive first step [REDACTED TEXT].[40]

3.6 Committee members raised the following main questions in discussion:

(a) Could you explain more fully what additional value the proposed regulations will deliver beyond what is already achieved through existing guidance? In particular, to what extent are these regulations simply converting current practice into legislation, and to what extent are they intended to drive a material increase in the numbers of disabled and health affected claimants of UC, NS ESA and PIP who feel able to try work or volunteering?

The principal purpose of the regulations is to put beyond doubt, on the face of legislation, that undertaking paid or voluntary work, in and of itself, will not trigger a reassessment. While current guidance already reflects this position (in the case of paid work), DWP research and stakeholder and claimant feedback suggests that claimants are not always aware of the guidance or, if they are, many mistrust the Department based on poor, previous experience.

The act of legislating is therefore intended to demonstrate the Government's seriousness of intent and provide a clearer and more visible assurance than

guidance alone can offer. Although the policy is part of a wider effort to support more disabled people and people with health conditions into work, the Department does not expect this first stage, by itself, to shift the disability employment rate significantly.

(b) How closely do the proposed regulations mirror the Department's current guidance, and where do they go further, particularly in relation to voluntary work? To what extent is voluntary work the genuinely "new" element in regulatory terms, as opposed to a simple restatement of existing practice on paid employment?

In relation to paid work, the regulations largely reflect the position already set out in existing guidance: namely, that taking up employment does not automatically constitute a change of circumstances requiring an immediate reassessment. The main innovation in

[39] This response from DWP provided information relating to consideration or development of government policy. This text has been redacted at the request of the Department.
[40] This response from DWP provided information relating to consideration or development of government policy. This text has been redacted at the request of the Department.

regulatory terms is the explicit reference to voluntary work, which is not currently articulated in legislation and is dealt with less clearly in guidance. This later change is a direct consequence of a recommendation by the Right to Try Collaboration Committee.

(c) Given the reference to hundreds of thousands of claimants who might consider work, what level of additional movement into work or volunteering is the Department realistically expecting as a result of codifying current practice in regulations and enhancing communications? Is there any working estimate, such as tens of thousands, of additional people entering work, or is it not possible to quantify the likely impact at this stage?

The available evidence does not support a robust quantitative estimate of the additional number of people who might move into work as a result of these regulations. As previously described, there are many factors affecting disabled people's labour market participation, and it is difficult to isolate what impact this specific measure will have. The Department does not forecast a substantial change in employment rates arising solely from these regulations. That said, officials were confident that these regulations are a positive enabling step to encouraging more claimants to work.

(d) Given that around one fifth of PIP recipients are already in work, and the policy is framed as a contribution to tackling economic inactivity, is this the most appropriate mechanism for achieving that goal? What is the rationale for including PIP, given that entitlement to PIP is not, in itself, contingent on whether a claimant is in work or capable of work? Is there a risk that bringing PIP within the scope of these regulations could inadvertently increase fear among PIP claimants that their work activity will be scrutinised more closely or will be used against them in future assessments?

Ministers are keen that all three benefits, UC, NS ESA and PIP are in scope. Including PIP in the regulations helps reinforce the message that people can receive PIP and be in work. There is a legitimate concern that greater visibility of PIP in this context might heighten anxiety among some claimants and this risk would need to be carefully managed through communications and guidance. PIP has been included in the scope of Right to Try as an intentional response to the Government's desire to tackle economic inactivity and because evidence shows that fear of losing benefits remains a significant barrier to trying work among PIP claimants.

(e) For claimants who receive both PIP and UC or NS ESA on the basis of Limited Capability for Work (LCW) and Limited Capability for Work and Work-Related Activity (LCWRA), how will the interaction between the two assessments be managed in practice? Given that PIP criteria do not explicitly reference work, how will the Department ensure coherence and fairness between decisions taken under these parallel regimes when a claimant undertakes work or voluntary activity? In addition, how will reviews be managed if they are due for one shortly after commencing employment?

It is true that dual PIP and UC and/or NS ESA claimants can face the prospect of another scheduled PIP award review or work capability (re)assessment. At the moment, these assessments are conducted based on existing legislation and guidance. These regulations do not alter these in any way. The Department acknowledged the Committee's point and agreed to further explore and, if necessary and appropriate, make clearer, in guidance, how the two assessments should operate together in light of these regulations.

(f) For UC claimants who have health problems or disabilities but do not have an LCW/LCWRA determination, will there be any parallel "right to try" protection comparable to that envisaged for those on NS ESA, UC health journeys and PIP? More broadly, how will the Department ensure that those with significant health conditions but without LCW/LCWRA are not disadvantaged relative to those who do when they seek to test their capacity for work?

The main focus of the Right to Try regulations is on claimants who are already on the health-related journey, so those in receipt of UC and NS ESA with LCW/LCWRA, or PIP. All claimants on UC already have the ability to move into work and, if their claim ends, to return within six months without making a completely new claim, and this is built into the system. There are complexities around the position of those with health conditions who do not meet the LCW/LCWRA threshold, including in relation to work allowances, and communications would need to make clear what flexibilities and options exist dependant on whether someone is on the health journey or not.

(g) For UC claimants without LCW/LCWRA who move into work under the spirit of Right to Try but subsequently find that the job is unsustainable because of their health condition, would giving up that job be treated as voluntary leaving, potentially exposing them to a sanction? How will the Department ensure that the policy does not leave people who have tried work worse off if it fails because of their health?

UC claimants with an LCW/LCWRA determination cannot receive a high-level sanction for leaving work voluntarily. For claimants without LCW/LCWRA determination,

Work Coaches should document the reasons for leaving a job and to take account of evidence relating to a claimant's health and circumstances when referring to a decision maker who will consider all relevant evidence before applying a sanction. Where health makes a job unsustainable or negatively affects the claimant's health this would typically be considered good reason for leaving the job. It is theoretically possible for these claimants to be sanctioned, especially in cases where there is no evidence of the reason for leaving the job. The Department agreed to consider these issues so that the Right to Try policy is not undermined in practice.

(h) The policy is presented as a protection for people with LCW/LCWRA who wish to try work, but there are claimants with health conditions who move in and out of this status and "yo-yo" between periods of being in and out of work. How will the Department ensure that these individuals are not exposed to sanctions or adverse

reassessment outcomes when they attempt to work under the banner of Right to Try?

There is a group of claimants whose health conditions vary over time and whose status within the benefit system may change accordingly. Right to Try is intended to ensure that work in itself does not automatically trigger a reassessment for claimants with LCW and LCWRA determinations; however, the Department acknowledges that the broader framework around conditionality, sanctions and change of circumstances rules must also operate fairly for individuals with health conditions. The Department agreed to consider how the rules and guidance could be made more coherent and transparent and report back to the Committee outside of the meeting.

(i) **For "dual" claimants who receive more than one of the benefits in scope, there is a risk that a work-related development could, in practice, trigger separate reviews under different criteria. How will the Department ensure that, for such claimants, the path is genuinely easier and less confusing rather than exposing them to multiple overlapping processes? Does the Department have any estimates of the numbers who might be affected in this way, and how will reassurance be provided?**

The Department understands that dual claimants can currently experience overlapping assessment and re-assessment processes. This remains true as long as the WCA and PIP award review exists alongside each other. The Government plans to remove the WCA replacing it with a single assessment based on the PIP framework. In the meantime, these Right to Try regulations cannot fundamentally change the way that these, quite different assessments work. The Department agreed to consider how the rules and guidance could be made more coherent and transparent for dual claimants and report back to the Committee outside of the meeting.

(j) **If the regulations provide that work alone will not trigger a PIP reassessment, how will the Department in practice know that a claimant is working if there is no requirement to report work as a change of circumstances? How does this sit with the Department's expectations about claimants providing information relevant to their award?**

PIP claimants face no requirement to report work as a change of circumstance (unlike in UC and NS ESA). The reasons why PIP claimants must contact the Department immediately are listed on the government website[41], they do not include starting to work and this will not change. The intention of the regulations is to address the false belief among PIP claimants that work could automatically trigger reassessment.

[41] Personal Independence Payment (PIP): Report a change to your needs or circumstances - GOV.UK

(k) How does the Department intend to communicate a message that claimants can "try work" without being reassessed, when in practice there remain circumstances in which work, in combination with other factors, may still contribute to a reassessment? Has it been considered to allow those who have LCWRA or are disabled to take up a public appointment? Has the Department considered testing the messaging with advisers, stakeholders and claimants to ensure that it does not overpromise or inadvertently mislead?

Communicating the Right to Try proposals will present some challenges which, if poorly handled, could undermine trust. That is why a test and learn approach will be adopted, to test the effectiveness of different messages to see how they work for three key audiences: claimants with health and disability conditions, stakeholder organisations and the press. This will start with "myth busting" around existing rules, such as addressing the common misunderstandings of the 16-hour work rule (which only applies to NS ESA), looking to promote a better understanding of the UC work allowances and tapers, and then include the new regulatory assurances on top of that.

(l) There is a concern that if, in the early tranches of cases, claimants who have acted in good faith under the Right to Try message nonetheless find that their work is treated as a change of circumstances and leads to reassessment or loss of benefit, such experiences could rapidly gain publicity and undermine the entire communications effort. How will the Department guard against this, particularly where the boundary between what does and does not constitute a relevant change of circumstances remains blurred?

There is that risk that if claimants' early experiences are negative, it will be difficult to sustain a positive narrative. The regulations are intended to ensure that work in itself is not treated as a relevant change of circumstances; however, other reported changes, such as a significant improvement in health, may legitimately trigger reassessment. Clearer guidance and training will be required so that colleagues understand and apply the rules consistently, and this will be done alongside the communications campaign.

(m) Would it be possible for the Department to publish a list of types of work or jobs that would never be treated as a relevant change of circumstances for reassessment purposes, so that claimants have clear assurance about what they can safely do? Could this be put into the relevant regulations?[42] If this is not possible, is there a risk that the regulations could, in practice, set people up to fail by appearing to promise a protection that cannot be delivered? Especially because the supporting paperwork indicates that *"any activities customers do whilst working can be considered as part of a reassessment"*.

In reality, it would be neither feasible nor desirable to produce a definitive list of jobs or activities that would never be considered as out of bounds during a reassessment. By design, these assessments seek to understand an individual's functional ability in a holistic way and consider the nature of an individual's original award alongside their

[42] For example, The Universal Credit Regulations 2013

current circumstances and functional ability. The Department agreed that in order to provide clarity, communications and guidance do need to be as clear as possible about the scenarios in which someone's ability to work could be considered as a material change in circumstances which may affect their award. The Department agreed to look at this and consider whether it could be more explicitly explained in guidance.

(n) Is there a risk that by placing provisions in regulations, rather than leaving them in guidance, it could create harder legal lines that expose contradictions and increase the downside risk for claimants? How confident is the Department that the drafting avoids creating conflicts between the apparent message of "no reassessment from work alone" and the underlying change of circumstances framework?

Moving from guidance to regulations inevitably hardens some boundaries; however, this is necessary to give claimants and Ministers a clear statutory statement that work in itself will not trigger reassessment. The Committee's concerns about potential contradictions and unintended consequences are important. The Department agreed that they would consider whether any further clarifications could be made to reduce the risk of contradictions and would share any amendments with the Committee outside of the meeting.

(o) How will the Department manage the reputational risk that a strong public campaign encouraging claimants to "try work" could be undermined if even a small number of cases subsequently experience negative outcomes that appear to contradict the headline message? How would the Department respond if such cases were highlighted by the media alongside promotional material suggesting that it is safe to try work?

In any aspect of welfare policy which affects millions of claimants, there is always a risk that adverse individual cases could be picked up by the media and set against the Department's overall narrative. The proposed UK wide press activity, stakeholder engagement and other communications will need to be carefully tested, developed and framed, and this needs to involve the testing of the message with claimants and representative organisations before wider rollout in order to manage that risk.

(p) There have been circumstances in which evidence from employers has been used against claimants at tribunal proceedings. How will the Department ensure that the Right to Try policy does not repeat such experiences and that tribunal and appeal processes do not inadvertently undermine the intended reassurance?

There have been cases where work activity has been considered as part of reassessments, and this has contributed to mistrust. For those in receipt of PIP, around 20 per cent are already in work and being in work should not in itself prevent a person from qualifying. That said, questions about work will inevitably arise in some appeals and assessments; however, more work is needed to ensure that guidance and training emphasise that work should be interpreted in the context of overall functional ability, rather than as an automatic indicator that support is no longer required.

(q) Given that one driver for moving guidance into regulations is that existing guidance has not always been followed consistently by staff, how will the Department ensure that work coaches and decision makers fully understand and apply the new framework? Does the Department hold data on which Jobcentres are performing particularly well or poorly in supporting disabled claimants into work, and will this be used when testing and rolling out training and communications for staff?

Effective staff training and guidance are critical. Like any new change, staff will be engaged and the Department will adapt training packages and online learning, with detailed plans still to be developed. It is acknowledged that performance inevitably varies between offices and this is always kept under review by the Department.

(r) Given the limited time allocated to appointments within the Jobcentre, meaningful conversations about Right to Try and complex health related work issues are unlikely. Has the Department considered whether additional time or resources will be needed for work coaches to engage appropriately with claimants on these issues?

Appointment length can be a constraint, and these more complex discussions may require longer and/or more flexible engagement. The Department is considering how to engage more effectively with people who are not normally part of standard engagement patterns, and how the Right to Try policy would need to be considered within that wider context.

(s) Has the Department considered moving more quickly to the third stage of the Right to Try programme, bringing forward a broader package of substantive changes rather than starting with a narrow regulatory change followed by communications? Would a larger, more comprehensive package be more likely to shift behaviour meaningfully than a cautious staged approach?

Ministers have committed to publishing these regulations by the start of the next financial year. They are keen to demonstrate progress by putting existing practice on a statutory footing and improving communications. [REDACTED TEXT][43]

(t) If a claimant starts work and their clinical assessment later indicates improvement, could determinations be revised retrospectively on the basis that work was in fact a relevant change of circumstances that had not been notified at the time? How will the Department ensure that the policy genuinely alleviates fear rather than leaving a residual risk that undermines its intent?

Changes in health are rarely discrete events occurring on a single identifiable date. In most cases, it is difficult to say precisely when a claimant's functional ability improved or deteriorated. For that reason, when a PIP review takes place, any decision to adjust an award in light of changed circumstances is generally applied from the point of the review

[43] This response from DWP provided information relating to consideration or development of government policy. This text has been redacted at the request of the Department.

decision onwards, rather than retrospectively, except where there is clear evidence of fraud. It is a complex area, and guidance will need to explain clearly how the Department would distinguish between work as a standalone factor, which should not trigger reassessment, and work as part of a broader change that may properly give rise to review.

(u) As drafted, the regulations may not genuinely deliver the stated intent of providing reassurance and a practical "right to try" and could instead harden lines and expose claimants to new risks. Why are regulations necessary at this stage, rather than relying on improved guidance and communications. Is the Department confident that the benefits of legislating outweigh the potential downside risks identified in discussion?

Ministers wish to demonstrate a visible, statutory commitment that work in itself will not trigger reassessment, and that regulations provide a more prominent and authoritative signal than guidance. As has been highlighted, there are omissions and ambiguities in the existing framework, such as the treatment of change of circumstances issues and the considerations raised in relation to the fact that any activities customers do whilst working can be considered as part of a reassessment, which could usefully be addressed. As agreed, the Department will consider the issues raised in discussion and report back to the Committee outside of the meeting.

3.7 The Chair thanked officials for attending and for the constructive and candid discussion. He noted that the Department had committed to:

- Clarify how sanctions decisions will operate where claimants attempt work that proves unsustainable due to health issues.

- Give further consideration to the issues raised around clarity of assessment interactions and change of circumstances rules.

3.8 Subsequent to the meeting, and after careful consideration of the draft proposals and the evidence presented by the Department throughout the scrutiny process, the Committee concluded that the regulations as drafted do not provide the clarity or assurance needed to achieve their intended purpose. The limited scope of the amendments, and the ambiguity that remains around the treatment of work-related activities short of starting work, risk undermining claimant confidence - which the policy seeks to strengthen. The Committee therefore decided that the regulations would be taken on formal reference. In writing to the Minister for Social Security and Disability to communicate that outcome, the Chair would set out the Committee's concerns in the following areas:[44]

[44] The Chair's letter to the Minister for Social Security and Disability (12 February 2026) is provided at annex E)

- The relationship between the policy intent and the effect of the regulations;
- Clarity on change of circumstances and the operational framework;
- Consideration of alternative approaches;
- Evidence base, assumptions and likely behavioural impacts;
- Understanding of affected claimant groups; and

  Structural and legislative considerations.

Annex E – Letter to MFSSD from SSAC dated 12th February

SOCIAL SECURITY ADVISORY COMMITTEE

The Rt Hon. Sir Stephen Timms MP
Minister for Social Security and Disability
Caxton House
Tothill Street
London
SW1H 9NA

12 February 2026

Dear Sir Stephen,

The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026

At its meeting on 21 January, the Social Security Advisory Committee undertook its statutory scrutiny of the above regulations, which enshrine within legislation the existing rules – currently delivered through guidance.

Our understanding of the policy intent is for this change to encourage disabled working age people to try work without the fear of repercussions to their benefit award, through the reassessment of their health condition for benefit purposes.[45]

The Committee recognises that a fear of reassessment represents a long-standing barrier preventing many disabled people and people with health conditions from taking steps towards work. We also acknowledge the concerns that have been raised that the fear of losing benefits, or being reassessed unfavourably, can overshadow the potential benefits of trying work. Indeed, this is an issue that the Committee itself raised in 2022.[46] We therefore welcome the Government's intention to address these concerns through the development of a 'Right to Try' policy.

We also acknowledge the broader context within which these regulations are positioned. Supporting people to build confidence, skills and capability for work is central to improving health, wellbeing and longer-term financial security, and forms part of the Government's broader reform agenda. The Committee recognises the opportunity that well-designed policy has to deliver meaningful improvements in claimant experience and participation.

However, as you will be aware, the Committee's starting point for its scrutiny of all regulations is to assess the extent to which the material impact of regulations delivers against the stated

[45] This delivers the 2024 Labour Party manifesto commitment to give "*disabled people the confidence to start working without the fear of an immediate benefit reassessment if it does not work out*".
[46] Out of work disability benefit reform (2022)

policy intent.[47] After careful consideration of the draft proposals and the evidence presented to us throughout the scrutiny process,[48] the Committee has concluded that the regulations as drafted do not provide the clarity or assurance needed to achieve their intended purpose. The limited scope of the amendments, and the ambiguity that remains around the treatment of work-related activities short of starting work, risk undermining claimant confidence - which the policy seeks to strengthen.

Accordingly, we have decided to take these regulations on formal reference, under section 172(1) of the Social Security Administration Act 1992. In doing so, the Committee considers it important to outline the main considerations that informed this decision and that will shape our next steps.

Relationship between the policy intent and the effect of the regulations

The Committee recognises the Government's aim of offering clearer reassurance to claimants who wish to explore work. However, restricting the amendment solely to the removal of 'starting work' as a reassessment trigger does not address the broader framework within which work-related activities may still be used as evidence of changed functional capability. We are concerned that claimants may not distinguish meaningfully between starting work and engaging in preparatory or exploratory work-related activity. Without clearly defined parameters governing how such activities will be treated, many claimants are likely to continue perceiving reassessment as a potential risk. We therefore consider it important to explore how the Department expects the regulatory change to operate in practice, how it will be communicated, and whether further measures may be needed.

Clarity on change of circumstances and the operational framework

The Committee is concerned that claimants may find it difficult to understand what constitutes a change of circumstances capable of triggering a reassessment, especially with respect to activities
undertaken
in the context of having taken up work. Without clearer criteria - and clarity of how work-related activities will be interpreted - there is a risk that the policy could fail to achieve the intended improvement in claimant confidence. We are therefore keen to understand how the Department intends to define, communicate and operationalise these criteria, and how consistency will be ensured across delivery.

Consideration of alternative approaches

The Department did not provide evidence that a full range of options was explored during policy development. In particular, it would be helpful to understand whether the Department considered time-limited protections, clearer exemptions for low-intensity or exploratory activity, strengthened linking rules, or lessons drawn from comparable systems. A clearer articulation of these points is required to help assess the degree to which the chosen approach is robust, proportionate and likely to achieve the intended effect.

Evidence base, assumptions and likely behavioural impacts

Given the central importance of claimant confidence to the policy's success, greater clarity is required about the behavioural assumptions underpinning the proposals. It is not yet clear

[47] We are awaiting clarification from the Department of an explicit articulation of the policy intent.
[48] Including the additional information provided on 5 February in response to our follow up questions to the Department on 23 January.

how claimants - especially those with fluctuating or complex conditions - are expected to interpret the amendments, nor how the Department has assessed the risk that claimants will still fear that undertaking work-related activities might lead to reassessment.

We remain unconvinced that the planned communications approach alone will be sufficient to shift entrenched concerns, or whether deeper structural changes may be required to give claimants the reassurance the policy aims to provide.

Understanding of affected claimant groups

It is important to understand which groups are most likely to be affected by the proposed change. This includes individuals with fluctuating conditions, those whose functional limitations vary depending on the nature of the work activity, and Personal Independence Payment (PIP) only claimants whose assessment triggers differ from those relating to Universal Credit or Employment and Support Allowance. A fuller understanding of these groups is required to support the Committee's assessment of proportionality, likely impacts and potential unintended consequences.

Structural and legislative considerations

The Committee notes that the draft regulations do not modify the fundamental legislation underpinning Limited Capability for Work, Limited Capability for Work-Related Activity or PIP assessments. This may limit the degree of reassurance that can be achieved through these regulations alone. We would therefore like to have a greater understanding of the structural constraints that the Department considers apply in this area, as well as any alternative legislative or guidance options that may have been considered.

Next steps

The Committee is mindful of your commitment to Parliament that these proposals will be implemented by April 2026, and we will endeavour to provide our final report as quickly as possible. Given the considerable evidence the Department has already gathered through its consultation and collaboration committees – coupled with our own stakeholder discussions when we explored this issue in 2022 – we do not plan to issue a call for evidence on this occasion. Instead, we will have a more targeted engagement with organisations and individuals on issues where we consider there to be evidence gaps.

We will keep the Department informed as this formal reference progresses. To support the early completion of our work, we would welcome any further analysis, evidence or modelling the Department can share, including material relating to behavioural assumptions, claimant segmentation, stakeholder input and the rationale underpinning the proposed approach. I would, of course, be happy to discuss any aspect of this letter with you if that would be helpful.

In closing, I would like to express my thanks to Graeme Connor and his team for presenting these regulations to the Committee on 21 January, and for the constructive and open engagement throughout our scrutiny of the proposals. I am grateful for the clarity, professionalism and candour with which your officials have supported our work.

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A copy of this letter goes to the Secretary of State, The Baroness Sherlock OBE, Bill Thorpe and Graeme Connor.

Yours sincerely,

Dr Stephen Brien
SSAC Chair

Annex F – Membership of the Social Security Advisory Committee

Dr Stephen Brien (Chair)

Les Allamby

Fran Bennett

Joanne Cairns

Bruce Calderwood

Rachel Chiu

Tom Clark

Daphne Hall

Phil Jones

Owen McCloskey

Richard Machin

Jacob Meagher

Dr Suzy Walton

Professor Sharon Wright

Secretariat

Denise Whitehead (Committee Secretary)

Kenneth Ashworth

Robert Cooper

Edward Munn

The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Draft Regulations 2026

STATUTORY INSTRUMENTS

2026 No.

SOCIAL SECURITY

The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026

Made - - - -	***
Laid before Parliament	***
Coming into force - -	*30th April 2026*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 8(1) and (2), 9(1) and (2), and 25(2), (3) and (5) of the Welfare Reform Act 2007(**a**) and sections 37(3) and (4), 42(1) to (3), 80(1) and (3), and 94(1) to (3) of the Welfare Reform Act 2012(**b**).

[In accordance with section 172(1) of the Social Security Administration Act 1992(c), the Secretary of State has referred the proposals in respect of these Regulations to the Social Security Advisory Committee.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026 and come into force on 30th April 2026.

(2) Any amendment made by these Regulations has the same extent as the provision amended.

Amendment of the Universal Credit Regulations 2013

2. In regulation 41 of the Universal Credit Regulations 2013 (when an assessment may be carried out)(**d**)—

(a) in paragraph (1), for "(2)" substitute "(1A)";

(b) after paragraph (1), insert—

(a) 2007 e.5.
(b) S.I. 2013/377.
(c) 1992 c. 5.
(d) S.I. 2013/376, to which there are amendments not relevant to these Regulations.

"(1A) For the purposes of paragraph (1)(b), doing work for payment or in expectation of payment, or doing voluntary work, is not a relevant change of circumstances.".

Amendment of the Social Security (Personal Independence Payment) Regulations 2013

3. In regulation 11 of the Social Security (Personal Independence Payment) Regulations 2013 (re-determination of ability to carry out activities)(**a**)— (a) the existing provision is renumbered as paragraph (1);

(b) in paragraph (1), for "Where" substitute "Subject to paragraph (2), where";

(c) after paragraph (1) insert—

"(2) For the purposes of paragraph (1), doing work for payment or in expectation of payment, or doing voluntary work, is not a reason for a fresh determination.".

Amendment of the Employment and Support Allowance Regulations 2013

4.—(1) The Employment and Support Allowance Regulations 2013(**b**) are amended as follows.

(2) In regulation 15 (determination of limited capability for work) after paragraph (8), insert—

"(9) For the purposes of paragraph (8)(a), doing work for payment or in expectation of payment, or doing voluntary work, is not a relevant change of circumstances.".

(3) In regulation 30 (determination of limited capability for work-related activity) after paragraph (5), insert—

"(5A) For the purposes of paragraph (5)(a), doing work for payment or in expectation of payment, or doing voluntary work, is not a relevant change of circumstances.".

Signed by authority of the Secretary of State for Work and Pensions

Name
Parliamentary Under Secretary of State
Department for Work and Pensions

Date

(a) S.I. 2013/377.
(b) S.I. 2013/379

Department for Work and Pensions
www.gov.uk

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